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## TITLE 3—THE PRESIDENT

### EXECUTIVE ORDER 10085

AMENDMENT OF EXECUTIVE ORDER NO. 10011<sup>1</sup> AUTHORIZING THE SECRETARY OF STATE TO EXERCISE CERTAIN POWERS OF THE PRESIDENT WITH RESPECT TO THE GRANTING OF ALLOWANCES AND ALLOTMENTS TO GOVERNMENT PERSONNEL ON FOREIGN DUTY

By virtue of the authority vested in me by section 303 of the Independent Offices Appropriation Act, 1950 (Public Law 266, 81st Congress), and as President of the United States, section 1 (d) of Executive Order No. 10011 of October 22, 1948, authorizing the Secretary of State to exercise certain powers of the President with respect to the granting of allowances and allotments to Government personnel on foreign duty, is hereby amended to read as follows:

"(d) The authority vested in the President by section 303 of the Independent Offices Appropriation Act, 1950 (Public Law 266, 81st Congress), and by section 302 of the United States Information and Educational Exchange Act of 1948 (Public Law 402, 80th Congress) to prescribe, with respect to civilian officers and employees of the Government, regulations governing living-quarters allowances, cost-of-living allowances, and representation allowances in accordance with, or similar to, such allowances authorized by the said act of June 26, 1930, or the said section 901 of the Foreign Service Act of 1946."

This order shall become effective as of August 24, 1949.

HARRY S. TRUMAN

THE WHITE HOUSE,

October 28, 1949.

[F. R. Doc. 49-8815; Filed, Oct. 28, 1949; 4:44 p. m.]

<sup>1</sup> 3 CFR, 1948 Supp.

## TITLE 6—AGRICULTURAL CREDIT

### Chapter IV—Production and Marketing Administration and Commodity Credit Corporation, Department of Agriculture

#### Subchapter B—Export and Diversion Programs [Amtd. 1]

#### PART 518—FRUITS AND BERRIES, DRIED AND PROCESSED

##### DRIED FRUIT EXPORT PROGRAM (FISCAL YEAR 1950)

1. Section 518.103 is hereby amended to read as follows:

§ 518.103 *Approved countries.* An approved country shall be any one of the countries listed in this section, including any dependent area under the administration of any such country except any American dependency under the administration of France, Netherlands, and the United Kingdom. Such American dependencies include French Guiana, Guadeloupe, Inini, Martinique, Miquelon, and St. Pierre; Dutch Curacao, Aruba, Bonaire, and Surinam; British Bahamas Islands, British Guiana, Falkland Islands, Leeward Islands, including Antigua, British Virgin Islands, and St. Christopher; Tobago, Trinidad, and Windward Islands, including Dominica, Grenada, St. Lucia, and St. Vincent. The approved countries are the following: Austria, Belgium, Denmark, Eire, France, Germany, Bi-Zone Germany, French Zone, Iceland, Italy, Luxembourg, Netherlands, Norway, Portugal, Sweden, Switzerland, Trieste, United Kingdom.

2. Section 518.104 is hereby amended to read as follows:

§ 518.104 *Rate of payment.* The rate of payment shall be the applicable percentage, specified in Table A below, of the gross sales price per unit of weight (computed before deduction of the rate of payment to be made to the exporter under this offer), basis free-along-ship, United States port, as determined by the Director, Fruit and Vegetable Branch, Production and Marketing Administration, United States Department of Agriculture, (hereinafter referred to as the

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# FEDERAL REGISTER

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Director). Regardless of the port from which any of the dried fruit listed in this section is exported, the gross sales price for the purpose of computing the export payment hereunder may include only, as inland freight and port charges, whichever of the following is applicable:

(a) If shipped by rail, the lowest export freight cost necessary to transport the dried fruit from the point of origin in the state in which it was produced to a United States port of exportation and the port charges incidental to exportation from such port, or

(b) If shipped other than by rail, the lowest freight cost available for the kind of carrier used to transport the dried fruit from the point of origin in the state in which it was produced to a United States port of exportation and the port charges incidental to exportation from such port: *Provided*, That such cost of freight and port charges shall not exceed that referred to in paragraph (a) of this section.

If the exportation is from a port other than that having the lowest freight cost from the point of origin in the state in which the dried fruit was produced, the f. a. s. price at the port from which exportation is made shall be reduced by the difference between the total of the freight cost and port charges at (a) the port having the lowest freight cost

from such point of origin and (b) the port from which exportation is made, and the f. a. s. price, so reduced, shall be the f. a. s. price upon which export payment shall be calculated.

TABLE A

Commodity	Rate of payment in percent
Dried prunes, in bulk:	
Sizes 30/40 to 50/60, inclusive	30
Sizes 60/70 to 100/120, inclusive	40
Dried prunes of size 30/40 and smaller, to and including size 100/120, in cartons containing 2 pounds net weight, or less	25
Raisins, in bulk or cartons:	
Thompson seedless, natural (sun-dried)	40
Thompson seedless, bleached	50
Sultana, natural (sundried)	40

3. Section 518.112 is hereby amended to read as follows:

§ 518.112 *Minimum grade and inspection.* Packed processed dried prunes exported under this offer shall meet the minimum grade permitted to be marketed pursuant to the Federal marketing agreement and order governing the handling of dried prunes produced in California; packed processed raisins exported under this offer shall meet the minimum grade specified in Exhibit B of the Federal marketing agreement and order governing the handling of raisins produced from raisin variety grapes grown in California; and natural condition dried fruit exported under this offer shall meet minimum grade requirements established pursuant to the aforesaid marketing agreements and orders. All such dried fruit shall be inspected not more than 10 calendar days prior to shipment from the packing plant or warehouse of the person placing such dried fruit in the current of interstate or foreign commerce by an inspector authorized by the Dried Fruit Association of California, No. 1 Drumm Street, San Francisco, California, or by a person authorized by such other agency as the Director may designate.

(Sec. 32, 49 Stat. 774, as amended, sec. 112 (f), Pub. Law 472, 80th Cong.; 7 U. S. C. and Sup. 612c)

*Effective date.* This amendment shall be effective at 12:01 a. m., e. s. t., November 2, 1949.

Dated this 27th day of October 1949.

[SEAL] S. R. SMITH,  
Authorized Representative,  
of the Secretary of Agriculture.

[F. R. Doc. 49-8782; Filed, Oct. 31, 1949;  
8:57 a. m.]

## TITLE 7—AGRICULTURE

## Chapter IX—Production and Marketing Administration (Marketing Agreements and Orders), Department of Agriculture

PART 959—IRISH POTATOES GROWN IN THE COUNTIES OF CROOK, DESCHUTES, JEFFERSON, KLAMATH, AND LAKE IN OREGON, AND MODOC AND SISKIYOU IN CALIFORNIA

ORDER, AS AMENDED, REGULATING HANDLING

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959.1 Definitions.

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AUTHORITY: §§ 959.0 to 959.16 issued under sec. 5, 49 Stat. 753, as amended; 7 U. S. C. and Sup., 608c.

§ 959.0 *Findings and determinations.*—(a) *Findings upon the basis of the hearing record.* Pursuant to Public Act No. 10, 73rd Congress (May 12, 1933), as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.; 61 Stat. 202, 707), and the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders (7 CFR 900.1 et seq.; 13 F. R. 8585), a public hearing was held at Merrill, Oregon, on April 11-12, 1949, and at Redmond, Oregon, on April 14, 1949, upon proposed amendments to the tentatively approved marketing agreement and Order No. 59 regulating the handling of Irish potatoes grown in the counties of Crook, Deschutes, and Klamath, in the State of Oregon, and Modoc and Siskiyou in the State of California. Upon the basis of evidence introduced at such hearing, and the record thereof, it is found that:

(1) The terms and provisions of this order, as amended, prescribe, so far as practicable, such different terms, applicable to different production areas, as are necessary in order to give due recognition to the difference in production and marketing of such Irish potatoes.

(2) This order, as amended, is limited in its application to the smallest regional production area that is practicable, consistently with carrying out the declared policy of the act, and the issuance of several orders applicable to any subdivision of said production area specified herein would not effectively carry out the declared policy of the act.

(3) This order, as amended, and all of the terms and conditions of this order, as amended, will tend to effectuate the declared policy of the act with respect to Irish potatoes produced in said production area, specified in this order, as amended, by establishing and maintaining such orderly marketing conditions therefor as will tend to establish prices to the producers thereof at a level that will give Irish potatoes a purchasing power, with respect to the articles that the producers thereof buy, equivalent to the purchasing power of such Irish potatoes in the base period, August 1919-July 1929, and by protecting the interest of the consumer (i) by approaching the level of prices which it is declared in the act to be the policy of Congress to establish by a gradual correction of the current level of prices at as rapid a rate as the Secretary deems to be in the public interest and feasible in view of the current consumptive demand in domestic



and foreign markets, and (ii) by authorizing no action which has for its purpose the maintenance of prices to producers of such Irish potatoes above the level which it is declared in the act to be the policy of Congress to establish, and (iii) by authorizing the establishment and maintenance of such minimum standards of quality and maturity, and such grading and inspection requirements as may be incidental thereto, as will tend to effectuate such orderly marketing of such Irish potatoes as will be in the public interest; and

(4) All handling of potatoes, as defined in this order, as amended, is in the current of interstate or foreign commerce, or directly burdens, obstructs, or affects such commerce.

(b) *Additional findings.* It is necessary, in the public interest, to make the effective date of this order, as amended, not later than November 7, 1949. Any delay beyond such effective date will seriously jeopardize the possibility of accomplishing more efficient and orderly marketing, than is attainable under the present provisions of Marketing Order No. 59, of the 1949 crop of Irish potatoes grown in the production area, the marketing of which has already commenced. It is necessary to make this order, as amended, effective by the aforesaid date so that the Oregon-California Potato Committee, the administrative agency provided for in the order, as amended, can be reorganized to start functioning as soon as possible. In this manner, it will be possible for regulations to be formulated and issued so that producers will be in a position to obtain the benefits of this amended program on as much of their 1949 crop of potatoes as is possible.

Compliance with this order, as amended, will not require any special preparation on the part of handlers which cannot be completed by the effective time hereof and adequate notice will be given by the committee so that handlers will have sufficient time to make any necessary preparations for compliance with rules and regulations which may be issued thereafter. The nature and provisions of the order, as amended, are well known to handlers of Irish potatoes grown in the production area since the public hearing thereon was held in April 1949, and the recommended decision and final decision in connection therewith were published in the *FEDERAL REGISTER* on August 26, 1949, and September 23, 1949 respectively. It is hereby found and determined, in view of these facts and circumstances, that good cause exists for making this order, as amended, effective November 7, 1949, and that it would be contrary to the public interest to delay the effective date thereof for thirty days after publication in the *FEDERAL REGISTER* (5 U. S. C. 1001 et seq.).

(c) *Determinations.* It is hereby determined that: (1) The marketing agreement regulating the handling of Irish potatoes grown in the counties of Crook, Deschutes, Jefferson, Klamath, and Lake in the State of Oregon, and Modoc and Siskiyou in the State of California, upon which the aforesaid public hearing was held, has been executed by handlers

(excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping Irish potatoes grown in the aforesaid area) who handled not less than fifty percent of the volume of potatoes covered by the order, as amended;

(2) The order, as amended, regulates the handling of such Irish potatoes in the same manner as, and is made applicable only to the persons in the respective classes of industrial and commercial activity specified in, the aforesaid marketing agreement;

(3) The issuance of the order, as amended, is favored or approved (i) by at least two-thirds of the producers who participated in a referendum conducted by the Secretary of Agriculture and who, during the representative period (July 1, 1948-June 30, 1949) determined by the Secretary of Agriculture, were engaged, within the production area specified therein, in the production of Irish potatoes for market, and (ii) by producers who participated in the aforesaid referendum, who, during the aforesaid representative period, produced for market, within the production area specified therein, at least two-thirds of the volume of Irish potatoes produced by all producers who participated in the said referendum.

*Order relative to handling.* It is hereby ordered, pursuant to the findings and determinations set forth in § 959.0 hereof and pursuant to the aforesaid act, that such handling of potatoes, as defined in this order, as amended, shall, from and after the time hereinafter specified, be in conformity to and in compliance with the terms and conditions of this order, as amended.

§ 959.1 *Definitions.* As used in this part, the following terms have the following meanings:

(a) "Secretary" means the Secretary of Agriculture of the United States, or any other officer, or member of the United States Department of Agriculture, who is, or may hereafter be authorized to exercise the powers and to perform the duties of the Secretary of Agriculture.

(b) "Act" means Public Act No. 10, 73d Congress, as amended and reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.; 61 Stat. 202, 707).

(c) "Person" means an individual, partnership, corporation, association, or any organized group or business unit.

(d) "Production area" means and includes the counties of Crook, Deschutes, Jefferson, Klamath, and Lake in the State of Oregon, and Modoc and Siskiyou in the State of California.

(e) "Potatoes" means all varieties of Irish potatoes grown within the aforesaid production area.

(f) "Handler" is synonymous with shipper and means any person (except a common or contract carrier of potatoes owned by another person) who ships potatoes.

(g) "Ship" or "handle" means to transport, sell, or any other way to ship or place potatoes in the current of com-

merce within the State of production, or between the State of production and any point outside thereof.

(h) "Producer" means any person engaged in the production of potatoes for market.

(i) "Fiscal year" means the period beginning on July 1 of each year and ending June 30 of the following year.

(j) "Committee" means the administrative committee, called the Oregon-California Potato Committee, established pursuant to § 959.2.

(k) "Varieties" means and includes all classifications or subdivisions of Irish potatoes according to those definitive characteristics now or hereafter recognized by the United States Department of Agriculture.

(l) "Seed potatoes" means and includes all potatoes officially certified and tagged, marked or otherwise appropriately identified, under the supervision of the official seed potato certifying agency of the State from which the potatoes are shipped, or other seed certification agencies which the Secretary may recognize.

(m) "Table stock potatoes" means and includes all potatoes, not included within the definition of "seed potatoes."

(n) "Wholesale pack" means a unit of fifty pounds net weight or more of potatoes contained in a bag, crate, or any other type of container.

(o) "Consumer pack" means a unit of less than fifty pounds net weight of potatoes contained in a bag, crate, or any other type of container.

(p) "Grade" means any one of the officially established grades of potatoes, and "size" means any one of the officially established sizes of potatoes, as defined and set forth in:

(1) The United States Standards for Potatoes issued by the United States Department of Agriculture (14 F. R. 1955, 2161), or amendments thereto, or modifications thereof, or variations based thereon;

(2) United States Consumer Standards for Potatoes as issued by the United States Department of Agriculture (12 F. R. 7281), or amendments thereto, or modifications thereof, or variations based thereon; and

(3) Standards for potatoes issued by the State from which the potatoes are shipped, or amendments thereto, or modifications thereof, or variations based thereon.

(q) "Export" means shipment of potatoes beyond the boundaries of continental United States.

(r) "District" means each one of the geographical divisions of the production area established pursuant to § 959.2 (h).

§ 959.2 *Administrative committee—*

(a) *Establishment and membership.* (1) The Oregon-California Potato Committee consisting of ten members, of whom seven shall be producers and three shall be handlers, is hereby established. For each member of the committee there shall be an alternate who shall have the same qualifications as the member.

(2) An alternate member of the committee shall act in the place and stead of the member for whom he is an alternate, during such member's absence. In the



event of the death, removal, resignation, or disqualification of a member his alternate shall act for him until a successor for such member is selected and has qualified.

(b) *Procedure.* (1) Seven members of the committee shall be necessary to constitute a quorum and seven concurring votes will be required to pass any motion or approve any committee action.

(2) The committee may provide for meeting by telephone, telegraph, or other means of communication and any vote cast at such a meeting shall be confirmed promptly in writing: *Provided*, That if any assembled meeting is held, all votes shall be cast in person.

(c) *Selection.* (1) Persons selected as committee members or alternates to represent producers or handlers shall be producers or handlers, respectively, or officers or employees of a corporate producer or handler, respectively, in the district for which selected and residents of such district.

(2) The Secretary shall select three producer members of the committee, with their respective alternates, from District No. 1 and two producer members, with their respective alternates, from each of the other districts designated in paragraph (h) of this section, which members and alternates shall represent the respective district from which they are selected. The Secretary shall also select one handler member of the committee, with his respective alternate, from each of such districts.

(3) Any person selected by the Secretary as a committee member or as an alternate shall qualify by filing a written acceptance with the Secretary within ten days after being notified of such selection.

(d) *Term of office.* (1) The term of office of committee members and alternates shall be for two years beginning on the first day of July and continuing until the end of the succeeding fiscal year, and until their successors are selected and have qualified: *Provided, however*, That after the effective date of this amendment, an additional producer member of the committee and his alternate, representing District No. 1, shall be nominated and selected to serve until the end of the then current fiscal year, and until their successors are selected and have qualified: *Provided further*, That the term of office of four members of the committee and their respective alternates, incumbents on the effective date hereof, shall terminate at the end of the then current fiscal year, and that the term of office of five members of the committee and their respective alternates, incumbents on the effective date hereof, shall terminate at the end of the succeeding fiscal year following the effective date hereof.

(2) Committee members and alternates shall serve during the term of office for which they are selected and have qualified, or during that portion thereof beginning on the date on which they qualify during the current term of office and continuing until the end thereof, and until their successors are selected and have qualified.

(e) *Powers.* The committee shall have the following powers:

(1) To administer the provisions hereof in accordance with its terms;

(2) To make rules and regulations to effectuate the terms and provisions hereof;

(3) To receive, investigate, and report to the Secretary complaints of violation of the provisions hereof; and

(4) To recommend to the Secretary amendments hereto.

(f) *Duties.* It shall be the duty of the committee:

(1) At the beginning of each fiscal year, to meet and organize, to select a chairman and such other officers as may be necessary, to select subcommittees of committee members, and to adopt such rules and regulations for the conduct of its business as it may deem advisable;

(2) To act as intermediary between the Secretary and any producer or handler;

(3) To furnish to the Secretary such available information as he may request;

(4) To appoint such employees, agents, and representatives as it may deem necessary and to determine the salaries and define the duties of each such person;

(5) To investigate, from time to time, and to assemble data on the growing, harvesting, shipping, and marketing conditions with respect to potatoes, and to engage in such research and service activities which relate to the handling or marketing of potatoes as may be approved by the Secretary;

(6) To keep minutes, books, and records which clearly reflect all of the acts and transactions of the committee and such minutes, books, and records shall be subject to examination at any time by the Secretary or his authorized agent or representative;

(7) To make available to producers and handlers the committee voting record on recommended regulations and on other matters of policy;

(8) At the beginning of each fiscal year, to submit to the Secretary a budget of its expenses for such fiscal year, together with a report thereon;

(9) To cause the books of the committee to be audited by a competent accountant at least once each fiscal year, and at such other time as the committee may deem necessary or as the Secretary may request. The report of such audit shall show the receipt and expenditure of funds collected pursuant hereto; a copy of each such report shall be furnished to the Secretary and a copy of each such report shall be made available at the principal office of the committee for inspection by producers and handlers; and

(10) To consult, cooperate and exchange information with other potato marketing committees and other individuals or agencies in connection with all proper committee activities and objectives hereunder.

(g) *Expenses and compensation.* Committee members and their respective alternates when acting on committee business, shall be reimbursed for expenses necessarily incurred by them in the performance of their duties and in the exercise of their powers hereunder, and shall receive compensation at a rate to be determined by the committee, which rate shall not exceed \$10.00 for

each day, or portion thereof, spent in attending meetings of the committee.

(h) *Districts.* (1) For the purpose of selecting committee members, the following districts of the production area are hereby initially established:

*District No. 1.* The counties of Crook, Deschutes, and Jefferson in the State of Oregon;

*District No. 2.* The counties of Klamath and Lake in the State of Oregon; and

*District No. 3.* The counties of Modoc and Siskiyou in the State of California.

(2) The Secretary, upon the recommendation of the committee, may reestablish districts within the production area and may reapportion committee membership among the various districts: *Provided*, That in recommending any such changes in districts or representation, the committee shall give consideration to: (i) The relative importance of new areas of production; (ii) changes in the relative position, with respect to production, of existing districts; (iii) the geographic location of areas of production as they would affect the efficiency of administering the marketing agreement and order; and (iv) other relevant factors: *Provided further*, That there shall be no change in the total number of committee members or in the total number of districts.

(i) *Nomination.* The Secretary may select the members of the Oregon-California Potato Committee and their respective alternates from nominations which may be made in the following manner:

(1) Nominations for the new member and alternate of the committee, provided for in paragraph (d) of this section, may be submitted by producers, or groups thereof, residing in District No. 1, on an elective basis, or otherwise.

(2) In order to provide nominations for committee members and alternates (except for nominations provided for in subparagraph (1)) of this paragraph:

(i) The committee shall hold or cause to be held prior to May 1 of each year, after the effective date hereof, a meeting or meetings of producers and of handlers, respectively, in each of the districts designated in paragraph (h) of this section, in which the term of office of committee members, and their respective alternates, will terminate at the end of the then current fiscal year;

(ii) In arranging for such meetings the committee may, if it deems desirable, utilize the services and facilities of existing organizations and agencies;

(iii) At each such meeting at least two nominees shall be designated for each position as member and for each position as alternate member on the committee, which is vacant or which is to become vacant at the end of the then current fiscal year;

(iv) Nominations for committee members and alternate members shall be supplied to the Secretary in such manner and form as he may prescribe, not later than 30 days prior to the end of each fiscal year;

(v) Only producers may participate in designating nominees for producer committee members and their alternates and only handlers may participate in



designating nominees for handler committee members and their alternates;

(vi) Each person who is both a handler and a producer may vote either as a handler or as a producer and may elect the group in which he votes; and

(vii) Regardless of the number of districts in which a person handles or produces potatoes, each such person is entitled to cast only one vote on behalf of himself, his agents, subsidiaries, affiliates, and representatives, in designating nominees for committee members and alternates: *Provided*, That in the event a person is engaged in handling or producing potatoes in more than one district, such person shall elect the district within which he may participate as aforesaid in designating nominees: *Provided further*, That an eligible voter's privilege of casting only one vote, as aforesaid, shall be construed to permit a voter to cast one vote for each position to be filled in the respective district in which he elects to vote.

(3) If nominations are not made within the time and in the manner specified by the Secretary pursuant to subparagraph (2) of this paragraph, the Secretary may, without regard to nominations, select the committee members and alternates on the basis of the representation provided for herein.

(j) *Vacancies*. To fill any vacancy occasioned by the failure of any person selected as a committee member or as an alternate to qualify, or in the event of the death, removal, resignation, or disqualification of any qualified member or alternate, a successor for his unexpired term may be selected by the Secretary from nominations made in the manner specified in paragraph (i) (2) of this section, or the Secretary may select such committee member or alternate from previously unselected nominees on the current nominee list from the district involved. If the names of nominees to fill any such vacancy are not made available to the Secretary within 30 days after such vacancy occurs, the Secretary may fill such vacancy without regard to nominations, which selection shall be made on the basis of the representation provided for herein.

#### § 959.3 Expenses and assessments—

(a) *Expenses*. The committee is authorized to incur such expenses as the Secretary finds may be necessary to perform its functions hereunder during each fiscal year and for such other purposes as the Secretary may determine to be appropriate pursuant to the provisions hereof. The funds to cover such expenses shall be acquired by the levying of assessments, as herein provided, upon handlers.

(b) *Assessments*. (1) Each handler who first ships potatoes shall pay to the committee, upon demand, such handler's pro rata share of the expenses which the Secretary finds will be incurred by the committee for its maintenance and functioning during each fiscal year, and for such other purposes as the Secretary may determine to be appropriate pursuant to the provisions hereof. Such handler's pro rata share of such expense shall be equal to the ratio between the total quantity of potatoes handled by

him as the first handler thereof, during the applicable fiscal year, and the total quantity of potatoes handled by all handlers as the first handlers thereof, during the same fiscal year. The Secretary shall fix the rate of assessment to be paid by such handlers.

(2) At any time during a fiscal year, the Secretary may increase the rate of assessment in order to secure sufficient funds to cover any later finding by the Secretary relative to the expenses of the committee. Such increase shall be applicable to all potatoes handled during the given fiscal year. In order to provide funds to carry out the functions of the committee, handlers may make advance payment of assessments.

(c) *Accounting*. (1) If, at the end of a fiscal year, it shall appear that assessments collected are in excess of expenses incurred, each handler entitled to a proportionate refund of the excess assessments shall be credited with such refund against the operations of the following fiscal year, unless he demands payment thereof, in which event such proportionate refund shall be paid to him.

(2) If, upon the termination hereof and after reasonable effort by the committee, it is found impossible to return excess funds to handlers, such funds shall, with the approval of the Secretary, be turned over to an appropriate agency serving potato producers in the production area.

(3) The committee may, with the approval of the Secretary, maintain in its own name or in the name of its members, a suit against any handler for the collection of such handler's pro rata share of the expenses of the committee.

(d) *Funds*. All funds received by the committee pursuant to any provision hereof shall be used solely for the purposes herein specified and shall be accounted for in the following manner:

(1) The Secretary may at any time require the committee and its members to account for all receipts and disbursements; and

(2) Whenever any person ceases to be a committee member or alternate, he shall account for all receipts and disbursements and deliver all property and funds in his hands, together with all books and records in his possession, to his successor in office or to such person as the Secretary may designate, and shall execute such assignments and other instruments as may be necessary or appropriate to vest in such successor or in such designated person the right to all the property, funds, or claims vested in such member or alternate.

§ 959.4 Regulation—(a) *Duration of regulation*. All rules and regulations issued by the Secretary pursuant to Order No. 59 shall continue in effect hereunder as originally issued, or subsequently modified, until such rules and regulations are changed, modified, or suspended in accordance herewith.

(b) *Marketing policy*. At the beginning of each fiscal year the committee shall prepare and submit to the Secretary a report setting forth its proposed policy for the marketing of potatoes during such fiscal year. In the event it becomes

advisable to deviate from such marketing policy, because of changed demand and supply conditions, the committee shall formulate a new marketing policy and shall submit a report thereon to the Secretary. The committee shall notify producers and handlers of the contents of such reports.

(c) *Recommendation for regulations*. (1) It shall be the duty of the committee to investigate supply and demand conditions for grade, size, and quality of potatoes of all varieties. In such investigations, the committee shall give due consideration to the following factors:

(i) Market prices of potatoes, including prices by grade, size, and quality in wholesale or in consumer packs, or any other shipping unit;

(ii) Potatoes on hand in the market areas as manifested by supplies en route and on track at the principal markets;

(iii) Supply of potatoes by grade, size, and quality, in the production area defined herein and in other production areas;

(iv) The trend and level of consumer income; and

(v) Other relevant factors.

(2) The committee shall recommend regulation to the Secretary, in accordance herewith, whenever it finds, on the basis of the foregoing investigation, that such conditions make it advisable:

(i) To regulate, in any or all portions of the production area, the shipment of particular grades and sizes of any or all varieties of tablestock or seed potatoes, or both, during any period; or

(ii) To regulate the shipment of particular grades and sizes of potatoes differently for different varieties, for different portions of the production area, for consumer or wholesale packs, for tablestock and seed, or any combination of the foregoing, during any period; or

(iii) To regulate the shipment of potatoes by establishing minimum standards of quality and maturity, in terms of grades, sizes, or both, and such grading and inspection requirements as will effectuate orderly marketing in the public interest.

(d) *Issuance of regulations*. (1) The Secretary shall limit the shipment of potatoes as hereinafter set forth, whenever he finds from the recommendations and information submitted by the committee, or from other available information, that it would tend to effectuate the declared policy of the act:

(i) To regulate, in any or all portions of the production area, the shipment of particular grades and sizes of any or all varieties of table stock or seed potatoes, or both, during any period; or

(ii) To regulate the shipment of particular grades and sizes of potatoes differently for different varieties, for different portions of the production area, for consumer or wholesale packs, for table stock and seed, or any combination of the foregoing, during any period; or

(iii) To regulate the shipment of potatoes by establishing minimum standards of quality and maturity, in terms of grades, sizes, or both, and such grading and inspection requirements as will effectuate orderly marketing in the public interest.



(2) The Secretary shall notify the committee of any such regulation and the committee shall give reasonable notice thereof to handlers.

(e) *Minimum quantities.* The committee, with the approval of the Secretary, may establish, for any or all portions of the production area, minimum quantities below which shipments will be free from regulations issued pursuant to § 959.3 and this section.

(f) *Inspection and certification.* During any period in which the shipment of potatoes is regulated pursuant to the provisions hereof, each handler who first ships potatoes shall prior to making shipment, cause each shipment to be inspected by an authorized representative of the Federal-State Inspection Service or such other inspection service as the Secretary shall designate.

Each such handler shall make arrangements with the inspection agency to forward promptly to the committee a copy of such inspection certificate: *Provided, however,* That (1) each handler making shipments of potatoes during such period, prior to making such shipment, shall determine if such shipment has been inspected and, if such shipment has not been so inspected and is not covered by an inspection certificate, each handler making such determinations shall have such potatoes inspected and shall arrange for a copy of the inspection certificate to be forwarded to the committee as aforesaid, and (2) each handler who first ships potatoes after such potatoes are regraded, resorted, or in any other way further prepared for market shall have each shipment of such potatoes inspected as provided herein.

(g) *Exemptions.* (1) The committee may adopt, subject to approval of the Secretary, the procedures pursuant to which certificates of exemption will be issued to producers or handlers.

(2) The committee may issue certificates of exemption to any producer who applies for such exemption and furnishes adequate evidence to the committee: (i) That by reason of a regulation issued pursuant to this section he will be prevented from shipping as large a proportion of his production as the average proportion of production shipped by all producers in said applicant's immediate production area, and (ii) that the grade, size, or quality of the applicant's potatoes have been adversely affected by acts beyond the applicant's control and by acts beyond reasonable expectation. Each certificate shall permit the producer to ship the amount of potatoes specified thereon. Such certificate shall be transferred with such potatoes at time of shipment.

(3) The committee may issue certificates of exemption to any handler who applies for such exemption and furnishes adequate evidence to the committee: (i) That by reason of a regulation issued pursuant to this section he will be prevented from shipping as large a proportion of his storage holdings of ungraded potatoes, acquired during or immediately following the digging season, as the average proportion of ungraded storage holdings shipped by all handlers in said applicant's immediate shipping area; and

(ii) that the grade, size, or quality of the applicant's potatoes have been adversely affected by acts beyond the applicant's control and by acts beyond reasonable expectation. Each certificate shall permit the handler to ship the amount of potatoes specified thereon. Such certificate may be transferred with such potatoes at time of shipment.

(4) The committee shall be permitted at any time to make a thorough investigation of any producer's or handler's claim pertaining to exemptions.

(5) If any applicant for exemption certificates is dissatisfied with the determination by the committee with respect to his application, said applicant may file an appeal with the committee. Such an appeal must be taken promptly after the determination by the committee from which the appeal is taken. Any applicant filing an appeal shall furnish evidence satisfactory to the committee for a determination on the appeal. The committee shall thereupon reconsider the application, examine all available evidence, and make a final determination concerning the application. The committee shall notify the appellant of the final determination and shall furnish the Secretary with a copy of the appeal and a statement of considerations involved in making the final determination.

(6) The Secretary shall have the right to modify, change, alter or rescind any procedure and any exemptions granted pursuant to this section.

(7) The committee shall maintain a record of all applications submitted for exemption certificates, a record of all exemption certificates issued and denied, the quantity of potatoes covered by such exemption certificates, a record of the amount of potatoes shipped under exemption certificates, a record of appeals for reconsideration of applications, and such information as may be requested by the Secretary. Periodic reports on such records shall be compiled and issued by the committee upon request of the Secretary.

§ 959.5 *Shipments for specified purposes.* (a) The Secretary upon the basis of recommendations of the committee, or upon the basis of other available information, may modify, suspend, or terminate regulations issued pursuant to § 959.3 or § 959.4, or both, in order to facilitate shipments of potatoes for the purposes specified below, whenever he finds that such actions tend to effectuate the declared policy of the act; adequate safeguards may be established, pursuant to paragraph (c) of this section, to prevent such shipments from entering channels of trade for other than the specified purpose:

(1) Shipments of potatoes for the purpose of having such potatoes graded or stored in the production area;

(2) Shipments of potatoes for export;

(3) Shipments of potatoes for distribution by the Federal Government, for distribution by relief agencies, or for consumption by charitable institutions;

(4) Shipments of potatoes for the purpose of having such potatoes manufactured or converted into specified products or by-products; and

(5) Shipments of potatoes for livestock feed or for other specified purposes.

(b) Whenever the shipments of seed potatoes are not subject to the same regulations as shipments of table stock potatoes, issued pursuant to § 959.3 or § 959.4, or both, the committee, with the approval of the Secretary, may prescribe adequate safeguards, pursuant to paragraph (c) of this section, to prevent diversion of such shipments from seed potato channels.

(c) The committee, with the approval of the Secretary, may prescribe adequate safeguards, authorized by paragraphs (a) and (b) of this section, which safeguards may include requirements that:

(1) Handlers shall file applications with the committee to ship potatoes pursuant to this section;

(2) Handlers shall obtain Federal State inspection provided by § 959.4 (f) and pay the pro rata share of expenses provided by § 959.3 in connection with potato shipments effected under the provisions of this section: *Provided,* That such inspection and payment of expenses may be required at different times than otherwise specified by the aforesaid sections; and

(3) (i) Handlers shall obtain Certificates of Privilege from the committee for shipments of potatoes effected or to be effected under the provisions of this section. The committee, with the approval of the Secretary, shall prescribe rules governing the issuance and the contents of such Certificates of Privilege.

(ii) The committee shall make a weekly report to the Secretary showing the number of applications for such certificates, the quantity of potatoes covered by such applications, the number of such applications denied and certificates granted, the quantity of potatoes shipped under duly issued certificates, and such other information as may be requested by the Secretary. The committee may rescind or deny Certificates of Privilege to any shipper if evidence is obtained that potatoes shipped by him for the purposes stated above have been diverted from such purposes contrary to the provisions hereof.

(d) (1) The Secretary shall give prompt notice to the committee of any modification, suspension, or termination of regulations pursuant to this section, or of any approval issued by him under the provisions of this section.

(2) The Secretary shall have the right to modify, change, alter, or rescind any safeguards prescribed and any certificates issued by the committee pursuant to the provisions of this section.

§ 959.6 *Reports.* Upon the request of the committee, with approval of the Secretary, every handler shall furnish to the committee, in such manner and at such time as may be prescribed, such information as will enable the committee to exercise its powers and perform its duties hereunder. The Secretary shall have the right to modify, change, or rescind any requests for reports pursuant to this section.

§ 959.7 *Compliance.* Except as provided herein, no handler shall ship potatoes, the shipment of which has been



prohibited by the Secretary in accordance with provisions hereof, and no handler shall ship potatoes except in conformity to the provisions hereof.

§ 959.8 *Right of the Secretary.* The members of the committee (including successors and alternates), and any agent or employee appointed or employed by the committee, shall be subject to removal or suspension by the Secretary at any time. Each and every order, regulation, decision, determination or other act of the committee shall be subject to the continuing right of the Secretary to disapprove of the same at any time. Upon such disapproval, the disapproved action of the said committee shall be deemed null and void, except as to acts done in reliance thereon or in compliance therewith prior to such disapproval by the Secretary.

§ 959.9 *Effective time and termination—(a) Effective time.* The provisions hereof shall become effective at such time as the Secretary may declare above his signature attached hereto, and shall continue in force until terminated in one of the ways hereinafter specified.

(b) *Termination.* (1) The Secretary may, at any time, terminate the provisions hereof by giving at least one day's notice by means of a press release or in any other manner which he may determine.

(2) The Secretary may terminate or suspend the operation of any or all of the provisions hereof whenever he finds that such provisions do not tend to effectuate the declared policy of the act.

(3) The Secretary shall terminate the provisions hereof at the end of any fiscal year whenever he finds that such termination is favored by a majority of producers who, during the preceding fiscal year, have been engaged in the production for market of potatoes: *Provided*, That such majority has, during such year, produced for market more than fifty percent of the volume of such potatoes produced for market; but such termination shall be effective only if announced on or before June 30 of the then current fiscal year.

(4) The provisions hereof shall, in any event, terminate whenever the provisions of the act authorizing them cease to be in effect.

(c) *Proceedings after termination.* (1) Upon the termination of the provisions hereof, the then functioning members of the committee shall continue as trustees, for the purpose of liquidating the affairs of the committee, of all the funds and property then in the possession of or under control of the committee, including claims for any funds unpaid or property not delivered at the time of such termination. Action by said trusteeship shall require the concurrence of a majority of the said trustees.

(2) The said trustees shall continue in such capacity until discharged by the Secretary; shall, from time to time, account for all receipts and disbursements and deliver all property on hand, together with all books and records of the committee and of the trustees, to such person

as the Secretary may direct; and shall upon request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title and right to all of the funds, property, and claims vested in the committee or the trustees pursuant thereto.

(3) Any person to whom funds, property, or claims have been transferred or delivered by the committee or its members, pursuant to this section, shall be subject to the same obligations imposed upon the members of the committee and upon the said trustees.

§ 959.10 *Effect of termination or amendment.* Unless otherwise expressly provided by the Secretary, the termination hereof or of any regulation issued pursuant hereto, or the issuance of any amendments to either thereof, shall not (a) affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provision hereof or any regulation issued hereunder, or (b) release or extinguish any violation hereof or of any regulation issued hereunder, or (c) affect or impair any rights or remedies of the Secretary or of any other person with respect to any such violation.

§ 959.11 *Duration of immunities.* The benefits, privileges, and immunities conferred upon any person by virtue hereof shall cease upon the termination hereof, except with respect to acts done under and during the existence hereof.

§ 959.12 *Agents.* The Secretary may, by designation in writing, name any person, including any officer or employee of the Government, or name any bureau or division in the United States Department of Agriculture, to act as his agent or representative in connection with any of the provisions hereof.

§ 959.13 *Derogation.* Nothing contained herein is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States to exercise any powers granted by the act or otherwise, or, in accordance with such powers, to act in the premises whenever such action is deemed advisable.

§ 959.14 *Personal liability.* No member or alternate of the committee, nor any employee or agent thereof, shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any handler or any person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate, or employee, except for acts of dishonesty.

§ 959.15 *Separability.* If any provision hereof is declared invalid, or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder hereof, or the applicability thereof to any other person, circumstance, or thing, shall not be affected thereby.

§ 959.16 *Amendments.* Amendments hereto may be proposed, from time to time, by the committee or by the Secretary.

Issued at Washington, D. C., this 26th day of October 1949, to be effective on and after 12:01 a. m., P. s. t., November 7, 1949.

[SEAL] K. T. HUTCHINSON,  
Acting Secretary of Agriculture.

[F. R. Doc. 49-8751; Filed, Oct. 31, 1949; 8:56 a. m.]

#### PART 984—HANDLING OF WALNUTS GROWN IN CALIFORNIA, OREGON, AND WASHINGTON

##### APPROVAL OF BUDGET OF EXPENSES OF WALNUT CONTROL BOARD FOR MARKETING YEAR BEGINNING AUG. 1, 1949

Notice was published in the October 5, 1949, issue of the FEDERAL REGISTER (14 F. R. 6065) that consideration was being given to the approval of the budget of expenses for the Walnut Control Board under Marketing Agreement No. 105 and Order No. 84 (7 CFR Part 984) regulating the handling of walnuts grown in California, Oregon, and Washington, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.). The amount of \$62,560 for the marketing year beginning August 1, 1949, was recommended by the Walnut Control Board pursuant to a resolution adopted by it at a duly called meeting held by it at Los Angeles, California, on August 31, 1949. This approval action is taken pursuant to the authority contained in § 984.7 (a) of the marketing agreement and order. An opportunity was afforded interested persons to submit written data, views, or arguments for consideration prior to the issuance of the final rule. No such written data, views, or arguments were received during the period specified for filing such documents.

After again considering all relevant matters, including the data submitted by the Walnut Control Board in support of its recommendation, it is hereby found and determined that:

§ 984.301 *Budget of expenses of the Walnut Control Board for the marketing year beginning August 1, 1949.* Expenses in the amount of \$62,560 are reasonable and are likely to be incurred by the Walnut Control Board for its maintenance and functioning, and for such other purposes as the Secretary may, pursuant to the provisions of the marketing agreement and order, determine to be appropriate, for the marketing year beginning August 1, 1949, and the incurring of expenses not in excess of that amount for the said marketing year is approved.

(48 Stat. 31, as amended; 7 U. S. C. 601 et seq.; 7 CFR Part 984.7 (a))

Done at Washington, D. C., this 26th day of October 1949.

[SEAL] K. T. HUTCHINSON,  
Acting Secretary of Agriculture.

[F. R. Doc. 49-8753; Filed, Oct. 31, 1949; 8:47 a. m.]



PART 989—HANDLING OF RAISINS PRODUCED FROM RAISIN VARIETY GRAPES GROWN IN CALIFORNIA

MINIMUM GRADE REQUIREMENTS FOR NATURAL CONDITION RAISINS

§ 989.201 *Minimum grade requirements for natural condition raisins—(a) Finding and determination.* (1) Pursuant to § 989.4 (e) (4) of Marketing Agreement No. 109 and Order No. 89 (14 F. R. 5136) regulating the handling of raisins produced from raisin variety grapes grown in California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), the Raisin Administrative Committee has prescribed the minimum grade requirements for natural condition raisins which are hereinafter set forth.

(2) In accordance with the Administrative Procedure Act (5 U. S. C. 1001 et seq.), notice of proposed rule-making, public procedure thereon, and publication or service of this section 30 days prior to its effective date hereby are found to be impracticable, unnecessary and contrary to the public interest in that acquisition of raisins by handlers during the 1949-50 crop year already has begun and it is necessary to have regulations of this nature in effect as promptly as possible in order to regulate such acquisitions effectively. No preparation for this section is required which cannot be completed prior to its effective date.

(3) The minimum grade requirements for natural condition raisins hereinafter set forth will tend to effectuate the declared policy of the act and these minimum grade requirements for natural condition raisins are hereby approved.

(b) *Order.* Effective on the 4th day of November, 1949, the minimum grade requirements for natural condition raisins are as follows:

Natural condition raisins shall have been prepared from mature grapes properly dried and cured and shall meet the following requirements:

(1) Shall be practically free from damage by sugaring, infestation, mold, imbedded dirt, or other foreign matter, fermentation, or mechanical or other similar damage.

(2) Shall be reasonably free from immature (skinny) raisins and shall have a normal characteristic color, flavor and odor of properly prepared raisins.

(3) The moisture content shall not exceed 16 percent, as determined by Dried Fruit Moisture Tester Method, and the raisins shall be of such quality and condition as can be expected to withstand storage as provided in the Marketing Agreement and Order, and to meet the minimum grade requirements set forth in Exhibit "B" after normal processing operations.

(48 Stat. 31, as amended; 7 U. S. C. 601 et seq.; 14 F. R. 5136)

Issued at Washington, D. C. this 26th day of October 1949.

[SEAL] K. T. HUTCHINSON,  
Acting Secretary of Agriculture.

[F. R. Doc. 49-8752; Filed, Oct. 31, 1949; 8:47 a. m.]

No. 211—2

PART 993—HANDLING OF DRIED PRUNES PRODUCED IN CALIFORNIA

ADMINISTRATIVE RULES AND PROCEDURES

Sec.

993.100 Findings and determinations.

993.101 Definitions.

993.104 Grade and size regulations.

993.105 Salable and surplus tonnages.

993.106 Reports.

AUTHORITY: §§ 993.100 to 993.106 issued under 48 Stat. 31, as amended, 7 U. S. C. 601 et seq.; 14 F. R. 5254.

§ 993.100 *Findings and determinations.* Pursuant to the provisions of Marketing Agreement No. 110 and Marketing Order No. 93 (14 F. R. 5254) regulating the handling of dried prunes produced in California, hereinafter referred to as the "marketing agreement and order," effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), hereinafter referred to as the "act," the Prune Administrative Committee, the administrative agency for operations under such marketing agreement and order, hereby establishes the rules and procedures hereinafter set forth, which rules and procedures are hereby found to be consistent with the provisions of the marketing agreement and order and necessary to accomplish the purposes of the act and the efficient administration of the marketing agreement and the order.

It is hereby found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedures and postpone the effective date of these administrative rules and procedures until thirty days after their publication in the FEDERAL REGISTER (see section 4 of the Administrative Procedure Act, 5 U. S. C. 1001 et seq.) in that (a) the production and marketing of the current crop of dried prunes has already begun and these administrative rules and procedures are necessary for immediate use in regulating the handling of such prunes, (b) the marketing agreement and order first became effective as to some of the regulatory provisions on August 25, 1949, and to other of such provisions on September 1, 1949, and these rules and procedures have been drafted as soon as it was practicable to do so thereafter, (c) handlers are generally familiar with these rules and procedures, (d) compliance with these rules and procedures will not require any special preparation on the part of persons subject thereto which cannot be completed on or before the effective date hereof, (e) a reasonable time is permitted under the circumstances for such preparation, and (f) these rules and procedures must be made effective on the date hereinafter set forth to effectuate the provisions of the marketing agreement and order, any regulations issued thereunder, and the declared policy of the act.

§ 993.101 *Definitions.* (a) "Order" means Marketing Agreement No. 110 and Marketing Order No. 93 regulating the handling of dried prunes produced in California (14 F. R. 5254).

(b) "Committee" means the Prune Administrative Committee established pursuant to § 993.2 of the order.

(c) Terms defined in the order shall have the meaning of such definitions when used herein.

§ 993.104 *Grade and size regulations—*

(a) *Inspection stations.* An inspection station shall be any plant of a handler, and any other place where prunes are normally and usually received in any considerable volume and at which there are reasonably adequate facilities for receiving, weighing, and sampling prunes.

(b) *Receiving of prunes by handlers—*

(1) *Incoming inspection.* Prunes must be inspected at an inspection station when they are tendered to a handler and, in order to be received as standard prunes, must be certified as standard prunes. At that time, the handler shall provide the inspector with any assistance necessary in drawing samples. When necessary to perform proper inspection, the inspector may require the handler to dump containers to permit proper sampling. Certification of any lot of prunes shall be made and computed on the basis of the net weight of prunes received in such lot, and the handler shall supply such information to the inspector. For each tender of prunes made to a handler by a producer or dehydrator, the handler shall, immediately upon acceptance thereof, issue to the producer or dehydrator a door receipt or weight certificate showing the name and address of the deliverer, the weight of the lot, and any other information necessary to identify the lot. An inspection certificate shall be limited to prunes covered by a single door receipt or weight certificate. When prunes are inspected at other than a handler's plant, the inspector shall forward with such lot to the handler, the handler's copy of the certificate. Following inspection, the inspector shall issue, in quadruplicate, a signed certificate containing the following information: (i) The date and place of inspection; (ii) the names and addresses of the producer or dehydrator, the handler, and the inspection agency; (iii) the variety of the prunes, the number and type of the containers thereof, and the net weight of the prunes as shown on the door receipt or weight certificate, together with the number of such receipt or certificate; (iv) whether the prunes are standard or substandard, and, if tendered as substandard, the average size count of the prunes in the tender, or, if accepted for sorting by the handler, the percentage of off-grade prunes in excess of the tolerances established for standard prunes and the size count of the off-grade prunes in the tender; and (v) the inspector's computations of the percentage of each group or combination of groups of defects for which a maximum tolerance has been established under the order, and which is then in effect.

(2) *Sorting by handlers of substandard natural condition prunes.* In case any natural condition prunes which fail to meet the applicable minimum standards as to grades and sizes are tendered to a handler by a producer or dehydrator, and it is agreed that such prunes shall be sorted by the handler in the manner



provided in § 993.4 (a) (5) (ii) of the order, a quantity of prunes, equivalent in weight to the excess of off-grade prunes shown by the applicable appraisal certificate to be present in the tonnages of prunes so appraised and certified, shall be removed from such tonnages by the handler and held by him, together with such other substandard natural condition prunes as may have been tendered to him by producers and dehydrators as such, for the account of the committee as substandard prunes in accordance with the provisions of § 993.3 (c) (3) of the order. The handler shall sort so that the weighted average size count of all substandard prunes so sorted and held by him during the crop year and subsequently delivered to the committee shall not exceed by more than 20 prunes per pound the weighted average size count of substandard prunes shown on appraisal certificates for prunes, on which sorting action is taken, issued to him for that crop year.

(c) *Disposition of prunes by handlers*—(1) *Outgoing inspection.* Except as otherwise specifically provided, no handler shall ship or otherwise make final disposition of natural condition prunes or of processed prunes unless he has, prior to such shipment or final disposition, had them inspected and obtained a certificate showing that such prunes meet the prescribed applicable minimum standards. Such inspection shall be made during that portion of the final preparation of the prunes for shipment or other final disposition as will afford proper sampling, and no handler shall perform such final preparation unless an inspector is present. The handler shall furnish to the inspector daily, and prior to each shipment, use or disposition, a copy of his prune shipping or disposition orders. For the prunes inspected by him each day which meet the minimum grade and size requirements for standard prunes, or standard processed prunes, the inspector shall issue in triplicate a signed certificate containing the following information: (i) The date and place of inspection; (ii) the name and address of the handler and of the inspection agency; (iii) the number and size of packages or the net weight of prunes; (iv) the number of the worksheet or worksheets on which the inspector's computations and results of tests are recorded; and (v) a statement that the prunes meet the prescribed applicable minimum standards.

(2) *Inter-handler transfers.* A handler who transfers prunes of his salable tonnage to a plant of another handler within the State of California without inspection shall submit to the committee a signed report on Form PAC 1.1, "Inter-handler Transfer Report," containing the following information: (i) The date of the transfer; (ii) the names and addresses of the handlers and the locations of the plants; (iii) the number of packages and the net weight of prunes; (iv) the condition of prunes (natural or processed); and (v) the manifest or billing number. Two copies of such report shall be forwarded to the receiving handler, on one of which the receiving handler shall certify to the receipt by him of such prunes, and submit it to the com-

mittee within 5 days (exclusive of Saturdays, Sundays, and legal holidays) following receipt of the prunes.

(3) *Defective prunes accumulated from standard prunes* ("packer pick-outs"). Any defective prunes which may be accumulated by a handler by removing them from standard prunes must, pursuant to § 993.4 (b) (5) (ii) of the order, be used or marketed as animal feed, pitted prunes, or as prune products only. In order to insure that such prunes will not be used for any purpose other than as animal feed, pitted prunes, or as prune products, any handler, prior to making any shipment or other disposition of such prunes, shall file a written application with the committee for permission to do so and receive the written approval of the committee thereto. Every such application shall set forth, if for shipment, the name and address of the consignee, the quantity of prunes to be shipped and their then present location, the disposition proposed to be made of them and, if such disposition is to be by someone other than the buyer, the name and address of such other person. If disposition is to be made by the accumulating handler, the application shall set forth similar information insofar as is applicable. In addition, the accumulating handler shall make available for examination by the committee, at his business office at any time during business hours, copies of all applicable purchase orders, sales contracts, or disposition orders, together with any further information which the committee may deem necessary or desirable to enable it to determine whether such prunes have been or will be actually utilized for a permitted purpose. The committee, in acting on the applications, shall specify the maximum quantity of defective prunes, if any, for which approval is granted. In the event the committee has cause to believe that such prunes will not be shipped or disposed of in accordance with a handler's application or has cause to believe that the prunes will not be utilized for a permitted purpose, the committee shall disapprove the handler's application and shall notify him of such disapproval and that he shall not make the proposed shipment or disposition.

Upon request of the committee, a handler shall file with the committee within ten days (exclusive of Saturdays, Sundays, and legal holidays) thereafter, a certified report covering such period as it may specify, on Form PAC 2.1, "Report of Disposition of Defective Prunes," containing the following information: (i) Date, the name and address of the handler and the period covered by the report; (ii) an itemized accounting, by buyers, of the tonnages of such defective prunes either shipped or disposed of during the period of the report; (iii) names and addresses of persons, other than buyers, making final disposition of such defective prunes during the period of the report.

Any of such prunes as may be shipped out of California shall be packed in sealed containers on each of which there has been marked on one side, or one end, in letters not less than three-fourths of an inch in height the words, "For Manufacturing Purposes Only." All of such prunes, wherever shipped or disposed of

and however packed, shall be examined by an inspector, prior to disposition or shipment. Upon examination, if the inspector shall have good and sufficient reason to believe that such defective prunes do not contain more than 10 percent, by number, of standard prunes, he shall issue, in triplicate, a signed clearance certificate (for the preparation of which the handler shall make available to the inspector the necessary data) containing the following information: (i) The date and place of examination and clearance; (ii) the name and address of the inspection agency and of the handler; (iii) the number and kind of packages, net weight, and the adequacy of the marking; (iv) the lot number or shipping or disposition order number; and (v) the destination and manner of disposition.

If the inspector finds upon such examination that such defective prunes do contain more than 10 percent by number of standard prunes, he shall make an inspection of such prunes in accordance with the provisions set forth for outgoing inspection as provided in § 993.104 (c) (1), and his clearance certificate shall show the actual percentage of defective prunes in excess of the then current tolerances for standard prunes or standard processed prunes. So long as the standard prunes are commingled with such defective prunes, they shall be shipped or otherwise disposed of only in accordance with the provisions established for the shipment or disposition of defective prunes accumulated by a handler as set forth in § 993.4 (b) (5) (ii) of the order.

§ 993.105 *Salable and surplus tonnages*—(a) *Reports*—(1) *Monthly reports on substandard prunes held separate from other prunes which are to be delivered to the committee.* Each handler shall submit to the committee a certified report on Form PAC 4.1, "Substandard Prunes Held Separate From Other Prunes by Handler for Delivery to the Prune Administrative Committee" containing the following information as of the last day of each month, beginning with September 1949, each such report for each month to be submitted not later than the 10th day of the following month: (i) The date and name and address of the handler; (ii) the effective date of the report; and (iii) the tonnages of substandard prunes physically held separately from other prunes by the handler, ready for delivery to the committee as of that date, itemized by plants, together with the locations of the plants.

(2) *Monthly cumulative reports on all surplus tonnage, standard and substandard.* Each handler shall submit to the committee for each month, beginning with November 1949, a certified report on Form PAC 5.1, "Handler's Cumulative Report of Surplus Tonnage", containing the following information, as of the last day of the month, in respect to prunes received, held, processed, disposed of, or shipped by him during the crop year, and submit the report for each month on or before the 10th day of the following month: (i) The date and the period of report; (ii) the name and address of the handler; (iii) the total cumulative net weight of surplus tonnage



received during the crop year through the month, segregated as to standard prunes and substandard prunes, and the total cumulative net weight of surplus prunes, segregated as to standard prunes and substandard prunes, removed from his premises, during the crop year through the month; (iv) the net weight of surplus standard prunes physically held by the handler, by sizes, if graded; and (v) the net weight of surplus substandard prunes physically held by the handler.

(3) *Handler's report of accounting.* Within 10 days (exclusive of Saturdays, Sundays and legal holidays) after a handler, other than a nonprofit cooperative agricultural marketing association, makes a size report, accounting, or settlement with a producer or dehydrator for prunes delivered to him, he shall submit to the committee a copy of the size report and the accounting or settlement record, which shall contain the following information: (i) The names and addresses of the producer or dehydrator and the handler, and the date of the size report, accounting or settlement; (ii) the contract number, if any; (iii) an itemized statement of the total tenders of prunes in the delivery, showing the date, receiving point, weight certificate, or door receipt number, inspection certificate number, net weight, variety, the crop year of production, and type of certification, and, if substandard, the average size count of a representative sample of the off-grade prunes in the tender, and, if received on appraisal, the tonnage of off-grade prunes in excess of applicable tolerances; and (iv) the total net weight of the delivery, itemized as to salable, surplus standard, and surplus substandard prunes, and the net weight by sizes, of the surplus standard prunes.

(4) *Cooperative marketing association's reports of accounting.* Upon written notice by the committee, nonprofit cooperative agricultural marketing associations who are handlers shall file with the committee within 10 days (exclusive of Saturdays, Sundays, and legal holidays) after the date of such request a signed cumulative report of the prunes received from its members and any other producers for whom it performs handling services, which shall contain the following information: (i) The name and address of the association, and the date of the report; and (ii) the total net weight of the deliveries, itemized by crop years of production as to salable, surplus standard and surplus substandard prunes, and the net weight and tentative sizes of the surplus standard prunes.

(b) *Exchange of salable tonnage prunes for surplus tonnage prunes.* Any handler who desires to exchange standard prunes of his salable tonnage for standard prunes of the surplus tonnage held by him for the committee or held in the possession of the committee, shall file with the committee a certified application on Form PAC 7.1, "Application for Exchange of Salable Tonnage for Surplus Tonnage", containing the following information: (1) The date and the name and address of the handler; (2) the quantity of prunes for exchange; (3) the sizes and grade of the required quantity of prunes in the surplus tonnage, by

weight of each size and grade, and the district of origin; and (4) the sizes, grade, and crop year of production of the quantity of prunes in the salable tonnage for exchange, by weight of each size and grade, and the district of origin. The handler shall make no such exchange until he shall have received the written approval of the committee, and the committee shall give him prompt notice in writing of its decision on his application.

(c) *Deferment of meeting surplus obligation.* Any handler who desires to defer the meeting of his surplus obligations in accordance with the provisions set forth in § 993.5 (c) (7) of the order shall make application to the committee on Form PAC 9.1, "Application for Deferment of Surplus Obligation", containing the following information: (1) The date and the name and address of the handler; (2) the total salable tonnage acquired or under contract with producers and dehydrators; (3) the period for which deferment is requested; (4) the total surplus tonnage on which deferment is requested; and (5) the type of surety bond offered. The committee shall notify the applicant promptly of its decision with regard to his application, including the amount of the bond required, if his application is approved. No handler shall use or dispose of surplus tonnage prunes until he shall have received approval of his application by the committee, and shall have filed the required bond with the committee.

(d) *Diversion privileges.* Any producer who desires to divert prunes in accordance with the provisions of § 993.5 (d) of the order shall make application to the committee for permission to avail himself of such privilege on Form PAC 10.1, "Application for Green Diversion of Prunes", containing the following information: (1) The date and the name and address of the applicant; (2) the exact location of the orchard or orchards or the name and location of the dehydrator at which the diversion is to take place; (3) the total bearing acreage of prunes operated by the applicant; (4) the applicant's estimate of his then current crop of prunes in equivalent dried tons; (5) the applicant's estimate of the dried tonnage equivalent of the quantity proposed for green diversion; (6) the proposed method of diversion, if harvested, indicating whether the prunes are to be fed to livestock or otherwise destroyed; (7) the proposed method of diversion, if unharvested, indicating whether the prunes are to be diverted by disking, pasturing, or irrigating the orchard; (8) the period during which diversion will take place, and the estimated date on which proof thereof can be supplied; (9) the name and address of the handler to whom the salable tonnage covered by the diversion certificate, together with such certificate, will be delivered, if known; and (10) the name and address of the other producer or other person to whom the diversion certificate will be transferred, if known. Each such application submitted to the committee shall be accompanied by a deposit of \$25.00 to apply against the costs of appraisal and supervision. The charge for any diversion certificate so issued shall be based on actual costs: *Provided*,

That the charge for the issuance of any such certificate shall not exceed \$3.00 per ton, or fractional part of a ton in excess of one-half ton, on a dried weight basis, of prunes diverted, but there shall be a minimum charge of \$25.00 in the event the amount to be charged on such basis would be less than \$25.00. In the event an application is rejected without an appraisal being made, the committee shall remit the full amount of the applicant's deposit. If an application is rejected or withdrawn after an appraisal is made, the committee shall remit to the applicant that portion of the deposit which is over and above the actual cost of the appraisal. The committee shall notify the applicant promptly of its decision, and, upon submission of proof of diversion satisfactory to the committee, it shall issue a diversion certificate.

(e) *Basis for the making of distribution of the net proceeds of the surplus pool.* It is provided in § 993.5 (e) (2) (i) of the order that the net proceeds from the disposition of surplus tonnage of prunes shall be distributed by the committee, either directly or through handlers as agents of the committee, under safeguards to be established by the committee, to persons in proportion to their contributions thereto, or to assignees of such interests, with appropriate grade and size differentials as established by the committee. Such grade and size differentials shall be fixed by the committee on the basis of the relative value, as determined by the committee, of the respective grades and sizes of the surplus tonnage, and each person entitled to share in the net proceeds shall be paid proportionately in accordance with such differentials as applied against the particular grades and sizes in the surplus prunes contributed on his behalf to the pool. In case the committee should determine that such payments be made through a handler, other than a nonprofit cooperative agricultural marketing association, such handler shall determine the amount of each individual payment due in connection with prunes delivered to him on the basis outlined above, using the information necessary to make such computation as furnished him by the committee, and draw a draft on the committee for the amount found to be due in favor of the person entitled to the payment. Upon receipt by the committee of such a draft, it shall check it for accuracy and honor it if it is found to be the correct amount payable to such person.

§ 993.106 *Reports—(a) Acquisitions and prices paid therefor.* Upon request of the committee, a handler shall file with the committee, within 5 days (exclusive of Saturdays, Sundays, and legal holidays) thereafter, a certified report covering such period as it may specify on Form PAC 11.1, "Report of Acquisition and Weighted Average Prices Paid to Producers and Dehydrators", containing the following information: (1) The date, the name and address of the handler, and the period covered by the report; (2) the total tonnage of prunes acquired and contracted to be acquired at a stipulated price from producers and dehydrators during the crop year to a date specified by the committee; and (3)



the weighted average basis prices paid or to be paid, to producers and dehydrators for each size, and the quantity purchased at each such price.

(b) *Sales by handlers.* Upon request of the committee, a handler shall file with the committee, within 10 days (exclusive of Saturdays, Sundays, and legal holidays) thereafter, a signed report covering such period as it may specify on Form PAC 12.1, "Report of Sales", containing the following information: (1) The date, the name and address of the handler, and the period covered by the report; (2) the total tonnage of prunes sold by the handler during the crop year to a date specified by the committee; (3) the total tonnages sold in domestic markets, by uses; (4) the total tonnages sold in export markets, segregated as to countries; and (5) the total tonnages sold to Federal Government agencies.

(c) *Shipments by handlers.* Beginning with the month of September 1949, each handler shall file with the committee, for each month, prior to the tenth day of the next succeeding month, a signed report on Form PAC 13.1, "Report of Shipments", containing the following information: (1) The date, the name and address of the handler, and the period covered by the report; and (2) the total tonnage of prunes shipped or otherwise disposed of by the handler during the period of the report, segregated as to commercial domestic outlets, commercial foreign export outlets, Commodity Credit Corporation purchases, other Federal Government agency purchases, and culls.

(d) *Carryover and marketing policy information.* Upon request of the committee, a handler shall, within 10 days (exclusive of Saturdays, Sundays, and legal holidays) thereafter, file with the committee a signed report on Form PAC 14.1, "Report of Carryover and Marketing Policy Information", containing such of the following items of information as may be requested by the committee: (1) The tonnage of prunes held by the handler, separately stated as surplus or salable tonnage, by size and grade, as of the date specified in the committee's request; and (2) the handler's estimate of the tonnage of prunes held by producers and dehydrators from whom the handler acquired prunes during the current or preceding crop year, of the tonnage and quality and size of prunes expected to be produced by such producers and dehydrators during the current or following crop year, of current prices being received by producers, dehydrators, and handlers, and of probable market requirements.

(48 Stat. 31, as amended, 7 U. S. C. 601 et seq.; 14 F. R. 5254)

Issued this 5th day of October 1949, to become effective on and after 12:01 a. m., P. s. t., November 4, 1949.

PRUNE ADMINISTRATIVE  
COMMITTEE,

[SEAL] R. A. McARTHUR,  
Chairman.

Approved: October 26, 1949.

K. T. HUTCHINSON,  
Acting Secretary of Agriculture.

[F. R. Doc. 49-8754; Filed, Oct. 31, 1949;  
8:47 a. m.]

## TITLE 8—ALIENS AND NATIONALITY

### Chapter I—Immigration and Naturalization Service, Department of Justice

#### Subchapter B—Immigration Regulations

#### PART 108—RECORDING OF ARRIVALS, DEPARTURES, AND REGISTRATIONS

#### DISPOSITION OF IMMIGRATION VISA FORM IN EXCLUSION CASES

OCTOBER 18, 1949.

Paragraph (b) of § 108.6, *Immigrants; Forms 256a and I-151*, Chapter I, Title 8 of the Code of Federal Regulations, is amended by deleting the last sentence and inserting instead the following: "The Form 256a submitted with such a record shall be retained in the Central Office, and the port shall be notified of the decision. Data as to the resulting final action at the port shall be transmitted on Form I-224 to the Central Office, and shall be placed on the Form 256a."

This order shall become effective on the date of its publication in the FEDERAL REGISTER. The requirements of section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U. S. C. 1003) as to notice of proposed rule making and delayed effective date are inapplicable for the reason that the regulation hereby prescribed pertains solely to agency procedure.

(Sec. 23, 39 Stat. 892, sec. 24, 43 Stat. 166, sec. 37 (a), 54 Stat. 675; 8 U. S. C. 102, 222, 458 (a))

[SEAL] WATSON B. MILLER,  
Commissioner of  
Immigration and Naturalization.

Approved: October 24, 1949.

PEYTON FORD,  
Acting Attorney General.

[F. R. Doc. 49-8748; Filed, Oct. 31, 1949;  
8:46 a. m.]

## TITLE 21—FOOD AND DRUGS

### Chapter I—Food and Drug Administration, Federal Security Agency

#### PART 146—CERTIFICATION OF BATCHES OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

#### REFUND OF CERTIFICATION FEES

By virtue of the authority vested in the Federal Security Administrator by the provisions of section 507 of the Federal Food, Drug, and Cosmetic Act (52 Stat. 1040, 1055, as amended by 59 Stat. 463, 61 Stat. 11, and Public Law 164, 81st Cong.; 21 U. S. C. 357), the regulations for certification of batches of antibiotic and antibiotic-containing drugs (12 F. R. 2231; 14 F. R. 3262) are amended as indicated below:

In § 146.8 *Fees*, the paragraph now numbered (f) is renumbered (g), and a new paragraph numbered (f) is inserted, to read as follows:

(f) Whenever in the judgment of the Commissioner the ratio between fees collected (which are based upon experience and the best estimate of costs and the best estimate of earnings) and the costs

of providing the service during an elapsed period of time, in the light of all circumstances and contingencies, warrants a refund from the fund collected during such period, he shall make ratable refunds to those persons to whom the services were rendered and charged, except for those services described under § 146.18.

This order, which provides for a change in the method of handling fees paid for certification of antibiotic and antibiotic-containing drugs, shall become effective upon publication in the FEDERAL REGISTER, since the affected industries will benefit by the earliest effective date, and I so find.

Notice and public procedure are not necessary prerequisites to the promulgation of this order, and I so find, since the amendment involves merely a change in the method of handling of fees for certification of antibiotic and antibiotic-containing drugs.

(Sec. 701 (a), 52 Stat. 1055; 21 U. S. C. 371 (a). Interpret or apply sec. 507, 59 Stat. 463, as amended; 21 U. S. C. and Sup. 357)

Dated: October 25, 1949.

[SEAL] JOHN L. THURSTON,  
Acting Administrator.

[F. R. Doc. 49-8755; Filed, Oct. 31, 1949;  
8:57 a. m.]

## TITLE 22—FOREIGN RELATIONS

### Chapter II—Economic Cooperation Administration

#### PART 201—PROCEDURES FOR FURNISHING ASSISTANCE TO PARTICIPATING COUNTRIES

#### PROCUREMENT AUTHORIZATION NUMBERS AND DELIVERY DATES

Amended Order 3 (F. R. Doc. 49-5990; 14 F. R. 4550) is revoked.

(Sec. 104 (f), Pub. Law 472, 80th Cong. Interpret or apply secs. 111, 403, Pub. Law 472, 80th Cong.)

WILLIAM FOSTER,  
Acting Administrator for  
Economic Cooperation.

[F. R. Doc. 49-8765; Filed, Oct. 31, 1949;  
8:57 a. m.]

[ECA Reg. 1, as Amended Nov. 15, 1949]

#### PART 201—PROCEDURES FOR FURNISHING ASSISTANCE TO PARTICIPATING COUNTRIES

*Preamble.* The provisions of this regulation concerning the terms and conditions for establishing accounts in banking institutions in the United States have been approved by the Secretary of the Treasury. ECA Regulation 1 is amended in its entirety to read as follows:

Sec.  
201.1 Definition of terms.  
201.2 What this part does.

#### SUBPART A—AUTHORIZATION PROCEDURE

201.3 Dollar allotments, procurement authorization applications and procurement authorizations.  
201.4 Sub-authorizations.



- Sec.  
201.5 Contracts and deliveries eligible for financing under procurement authorizations.  
201.6 General provisions incorporated in procurement authorizations.  
201.7 Ocean transportation.  
201.8 Project authorizations.  
201.9 Provisional allotments and commodity determinations.  
201.10 Procurement by U. S. Government agencies.

**SUBPART B—RESPONSIBILITIES OF IMPORTERS AND SUPPLIERS**

- 201.11 Use of procurement authorization number.  
201.12 Contracts and deliveries.  
201.13 Marking requirements.

**SUBPART C—REIMBURSEMENT FOR ASSISTANCE**

- 201.14 Types of reimbursement.  
201.15 Reimbursement for specific procurement payments by a participating country.  
201.16 Letter of commitment to a banking institution.  
201.17 Letter of commitment to a supplier.  
201.18 Account in a Federal Reserve Bank against which drafts may be drawn by a participating country.  
201.19 Documents required for reimbursement.  
201.20 Procurement by U. S. Government agencies.

**SUBPART D—PRICE PROVISIONS**

- 201.21 Purchase in bulk of commodities.  
201.22 Purchase prices.

**SUBPART E—RESPONSIBILITIES OF BANKING INSTITUTIONS**

- 201.23 Responsibilities of banking institutions in connection with letters of commitment issued to them.  
201.24 Saving clause.

**AUTHORITY:** §§ 201.1 to 201.24 issued under sec. 104 (f), Pub. Law 472, 80th Cong. Interprets or applies secs. 111, 403, Pub. Law 472, 80th Cong., as amended by Pub. Law 47, 81st Cong.

§ 201.1 *Definition of terms.* For the purpose of this part:

(a) "The act" shall mean the Foreign Assistance Act of 1948, Pub. Law 472, 80th Cong., as amended.

(b) "ECA" shall mean the Economic Cooperation Administration.

(c) "The Administrator" shall mean the Administrator for Economic Cooperation.

(d) "Participating country" shall have the meaning assigned to it in section 103 (a) of the act and shall also include China and Korea, and shall include any authorized agent of a participating country.

(e) "Banking institution in the United States" shall mean a banking institution organized under the laws of the United States, any State, territory or possession thereof, or the District of Columbia.

(f) "Approved applicant" shall mean the approved applicant (which may be any participating country or any person or organization, governmental or otherwise) named in any letter of commitment issued to a banking institution in the United States pursuant to Subpart C of this part; and shall include any agent authorized to act on behalf of an approved applicant.

(g) "Reimbursement" shall mean any of the methods set forth in Subpart C of this part used by ECA to pay for any

commodity or service furnished to a participating country under the act.

(h) "Delivery" shall mean the transfer to or for the account of a participating country of custody and right of possession of any commodity or the rendering to or for the account of a participating country of any service.

(i) "Importer" shall mean any person or organization, governmental or otherwise, to which a participating country has made a subauthorization (see § 201.4).

(j) "Supplier" shall mean any person or organization, governmental or otherwise, which furnishes any commodity or service under the act.

(k) "Source" shall mean the country or area from which a commodity is shipped to the participating country. Where, however, a commodity is shipped from a free port or bonded warehouse in the form in which received therein, "source" shall mean the country or area from which the commodity was shipped to the free port or bonded warehouse.

(l) "Commission" shall mean any sum paid or to be paid to an agent, broker, or other representative in connection with a sale financed by ECA.

(m) "Discount" shall mean that amount by which the supplier's gross sales price is reduced by a credit, refund or other allowance made or to be made to the buyer or consignee.

§ 201.2 *What this part does.* (a) Subpart A of this part describes the procedures for enabling participating countries to use ECA dollars to get commodities and services under the act.

(b) In general, the fact that a particular purchase is to be paid for by ECA will not basically affect the way in which an importer or supplier does business. Subpart B of this part, however, describes certain things which an importer must do when he has been told by his Government that he is buying under the act, and which a supplier must do when he obtains an order that is to be paid with ECA dollars.

(c) Subpart C of this part describes the procedures for obtaining reimbursement for assistance furnished under the act.

(d) Subpart D of this part contains the price provisions applicable to purchases of commodities that are to be paid with ECA dollars.

(e) Subpart E of this part describes the responsibility of banking institutions in the United States in connection with Letters of Commitment issued to them by the Administrator.

**SUBPART A—AUTHORIZATION PROCEDURE**

§ 201.3 *Dollar allotments, procurement authorization applications and procurement authorizations.* (a) *Dollar allotments and procurement authorization applications.* ECA will determine from time to time an amount of dollars to be made available to each participating country for the purchase of commodities and services. This determination will be made on Form ECA-201.<sup>1</sup> From time to time thereafter, the participating country will file with ECA, Washington, D. C., Form ECA-202,<sup>1</sup> based on available

<sup>1</sup> Filed with the original document.

allotments and indicating the dollar amounts of the commodities and services which the country desires to procure with its allotted funds. Two copies of each Form ECA-202 filed with ECA, Washington, D. C., will simultaneously be filed with the ECA Mission to the participating country. Supplementary information with respect to Procurement Authorization applications may be required from time to time.

(b) *Procurement authorizations.* ECA will review Form ECA-202 to determine that the proposed purchases of commodities and services for delivery to the participating country are in accordance with the objectives of the laws under which aid to the participating country is authorized. Upon such a determination, ECA, will, as soon as practicable, issue procurement authorizations on Forms ECA-203<sup>1</sup> and ECA-303.<sup>1</sup> These procurement authorizations will cover the commodities and services for the purchase of which the participating country may make subauthorizations to importers, and will specify the maximum dollar amounts which ECA will finance, the source from which the commodities and services (other than ocean transportation) are to be obtained, the periods during which contracts and deliveries are to be made, and any other provisions deemed necessary by ECA. Each procurement authorization will bear a procurement authorization number, and the issuance of a procurement authorization will constitute authority to the participating country to sub-authorize its importers to use the procurement authorization number in placing orders for the purchase of the commodities and services specified in the procurement authorization to be delivered to the participating country. Requests by the participating countries for changes in procurement authorizations may be made on Form ECA-205.<sup>1</sup>

Two types of procurement authorizations will be issued by ECA. They are:

(1) *Delivery quarter procurement authorizations.* Delivery quarter procurement authorizations will bear a procurement authorization number indicating the participating country to which the authorization is given, the commodity code number, the source from which the commodities or services are to be obtained, and a particular calendar quarter. Delivery quarter procurement authorizations will be issued only where necessary to amend outstanding delivery quarter procurement authorizations. An example of such a procurement authorization number is as follows:

38	010	00	491
Participating country	Commodity code	Source	Period
France	Bread grains	U. S.	1st quarter 1949

(2) *Serial number procurement authorizations.* Serial number procurement authorizations will bear a procurement authorization number indicating the participating country to which the authorization is given, the commodity code number, the source from which the commodity or services are to be obtained,



and a serial number. An example of such a procurement authorization number is as follows:

38	010	00	3001
Participating country	Commodity code	Source	Serial No.
France	Bread grains	U. S.	

(c) *Commodity codes.* Application on Form ECA-202 will be made in terms of the ECA Commodity Codes which are listed in the official ECA Commodity Code Book, as revised June 15, 1949, or in subsequent revisions. Authorization will normally be made in the same commodity codes, but in certain instances the procurement authorization may be restricted to one or more commodities within a commodity code.

§ 201.4 *Sub-authorizations.* For all procurement under procurement authorizations, the participating country will make sub-authorizations to importers within the terms of the procurement authorizations. The participating country, in sub-authorizing, will instruct the importer to use the procurement authorization number in placing orders, and will specify to importers the commodities or services, source, dollar value, periods during which contracts and deliveries must be made, and all of the special provisions of the procurement authorization which are applicable to the sub-authorization.

§ 201.5 *Contracts and deliveries eligible for financing under procurement authorizations—(a) Delivery quarter procurement authorizations—(1) Contracts.* Unless otherwise provided in the procurement authorization, contracts for the purchase of commodities and services under a delivery quarter procurement authorization may be made at any time up to and including 90 days subsequent to the last day of the specified calendar quarter.

(2) *Reporting.* Each participating country will maintain a record of the delivery quarter procurement authorizations received and procurement sub-authorized thereunder, and will, in accordance with instructions issued by ECA, report on Form ECA-204<sup>1</sup> with respect to such procurement sub-authorized by the participating country.

(3) *Deliveries.* Delivery of commodities or services under delivery quarter procurement authorizations heretofore or hereafter issued need not be promised within the calendar quarter indicated on the procurement authorization and, except when otherwise provided in the procurement authorization, may be made at any time after the date of issuance or 60 days prior to the beginning of the quarter, whichever date is earlier, up to and including 90 days subsequent to the last day of the quarter.

(b) *Serial number procurement authorizations—(1) Contracts.* Contracts for the purchase of commodities and services will not be eligible for financing under a serial number procurement authorization if made prior to the date of

issuance, or in the event that an initial contracting date is specified, if made prior to the specified date.

Serial number procurement authorizations originally issued on or after November 15, 1949, will indicate, in addition to an initial contracting date, a contract cut-off date. The contract cut-off date will normally be three to six months subsequent to the first day of the month following the month in which the procurement authorization is issued. In making sub-authorizations to importers, the participating country must specify that contracts under the sub-authorizations must be made on or before the contract cut-off date. Contracts made after the contract cut-off date will not be eligible for financing under the procurement authorization unless deliveries under such contracts are made within the delivery period specified on the procurement authorization (see subparagraph (3) of this paragraph).

(2) *Reporting.* In the case of each serial number procurement authorization which bears a contract cut-off date, the participating country shall, in accordance with instructions to be issued by ECA, report within 30 days after the contract cut-off date the total or estimated total value of all contracts entered into pursuant to sub-authorizations made under the procurement authorization, whether or not deliveries have actually been made. If the total or estimated total value of such contracts, as so reported, is less than the total dollar amount of the procurement authorization, the procurement authorization will be reduced by the amount of the difference. If no such report is filed by the participating country within 30 days after the contract cut-off date, ECA will assume that the procurement authorization has been fully sub-authorized and contracted for, and no reduction in the procurement authorization will be made.

(3) *Deliveries.* Each serial number procurement authorization will also state a delivery period. The period will be indicated normally by two dates: (i) The date before which deliveries may not be made (initial delivery date), and (ii) the date on or before which deliveries must be made (terminal delivery date). Where, however, an initial delivery date is not specified, the date of issuance of the procurement authorization shall be deemed to be the initial delivery date. Deliveries made before the initial delivery date or after the terminal delivery date will not be eligible for ECA financing under the procurement authorization. ECA may extend the terminal delivery date for limited periods on an individual contract basis, if the contract was made on or before the contract cut-off date.

If the terminal delivery date specified on the procurement authorization is February 29, 1952, the participating country shall, within 30 days after the contract cut-off date, report to ECA the latest delivery date required to permit completion of deliveries on contracts made pursuant to the procurement authorization, together with satisfactory evidence supporting the date requested. On the basis of such report and evidence, ECA will establish an appropriate terminal delivery date for the procurement

authorization. If no such report is filed, the terminal delivery date will be changed to a date 12 months from the end of the month during which the procurement authorization was originally issued, subject, however, to the provisions of § 201.16 (c) (6) and (7).

(c) *Submission of documentation of delivery.* In the case of reimbursement by letter of commitment to a bank, the submission of documentation shall be in accordance with § 201.16 (c) (2). In the case of other types of reimbursement, proper documentation of deliveries, in accordance with § 201.19, must be presented to the Controller, ECA, Washington, D. C., within 90 days after the latest date on which deliveries may take place under the procurement authorization.

(d) *Ocean transportation procurement authorizations.* Ocean transportation procurement authorizations will not be subject to the provisions of paragraphs (a), (b), and (c) of this section, but will be subject to the following provisions:

(1) *Deliveries.* In the case of delivery quarter procurement authorizations, delivery of ocean transportation services may be made at any time after the date of issuance or 60 days prior to the beginning of the specified quarter, whichever date is earlier, up to and including 90 days subsequent to the last day of the quarter. In the case of serial number procurement authorizations, delivery of ocean transportation services may be made at any time on or after the initial delivery date and on or before the terminal delivery date specified on the procurement authorization.

The date of delivery of ocean transportation services shall be deemed to be the date of the relative bill of lading, or airway bill, or the cablegram alternatively submitted under § 201.19.

(2) *Submission of documentation of delivery.* In the case of reimbursement by letter of commitment to a bank, the submission of documentation shall be in accordance with § 201.16 (c) (2). In the case of other types of reimbursement, proper documentation in accordance with § 201.19 (b) must be presented to the Controller, ECA, Washington, D. C. within 90 days after the date of the bill of lading covering ocean shipment.

§ 201.6 *General provisions incorporated in procurement authorizations.* Each procurement authorization issued shall be deemed to incorporate the following provisions:

(a) *Reimbursement.* Upon receipt of the documents required for reimbursement by this part, the Administrator will make reimbursement up to the amount specified in the procurement authorization for the assistance described in the procurement authorization, such reimbursement to be made by any one of the methods prescribed in Subpart C of this part.

(b) *Assignment of right to receive reimbursement.* The right to receive reimbursement under a procurement authorization may be assigned, in whole or in part, to a banking institution in the United States, but no such assignment shall be valid unless the proposed assignee has been approved by the Administrator.

<sup>1</sup> Filed with the original document.



(c) *Modification or revocation.* The Administrator reserves the right at any time and from time to time, and for any reason or cause whatsoever, to supplement, modify, or revoke any procurement authorization (including termination of deliveries under the procurement authorization).

In the event of any supplement, modification, or revocation, the right of reimbursement will be modified or terminated accordingly, except that if a letter of commitment has been issued, the rights of the holder of any such letter of commitment shall not be affected except to the extent specified in such letter of commitment.

(d) *Refund to Administrator.* The participating country will pay promptly to the Administrator upon demand the entire amount reimbursed (or such lesser amount as the Administrator may demand) whenever full documentation is not furnished within the specified time, or whenever it appears to the Administrator that the documentation submitted by or on behalf of the participating country (or any approved applicant named in a letter of commitment) does not support the expenditure for which the reimbursement was made, or whenever the Administrator determines that the reimbursement was improper as being in violation of any of the provisions of the act, any acts amendatory thereof or supplemental thereto, any relevant appropriation acts, or any rules, regulations or procedures of ECA promulgated under any of said acts.

Demands for refunds from participating countries may be made by the Administrator within five years after the date of reimbursement by ECA.

(e) *Discounts.* If a contract for which reimbursement is claimed provides for one or more discounts, only the invoice amount after discount (seller's gross price less all discounts) will be eligible for reimbursement.

(f) *Commissions—(1) Purchasing agents.* No commission paid or to be paid to an agent, broker or other representative of an importer will be eligible for reimbursement.

(2) *Sales agents.* A commission paid or to be paid to an agent, broker, or other representative of the supplier is not prohibited and will be eligible for reimbursement. Subsequent to reimbursement, however, the Administrator will request repayment from the importing country of the amount of such commission unless it is payable to such an agent, broker or other representative regularly doing business within the United States, who is (i) an individual who established residence in the United States prior to February 1, 1949, and has continuously resided in the United States since that date, or (ii) a partnership, a majority of the partners of which are individuals described in subdivision (i) of this subparagraph, or (iii) a corporation or other organization created under the laws of the United States, of any State, territory or possession thereof, or of the District of Columbia: *Provided*, That if such corporation or other organization is beneficially owned or controlled by individuals other than those described in subdivision (i) of this subparagraph,

it must have been created prior to February 1, 1949.

(g) *Adjustment refunds and adjustment credits.* If an importer receives an adjustment refund, or an adjustment credit, arising out of the terms of a contract or out of the normal customs of the trade, the Administrator will, in making reimbursement directly to a participating country, withhold the amount of such refund or credit; in case of other types of reimbursement, the Administrator will request repayment of the amount of such refund or credit from the participating country.

Upon settlement of a claim for an adjustment refund or an adjustment credit, the supplier shall immediately give written notice to the Controller, ECA, Washington, D. C., indicating the procurement authorization number, the name and address of the importer, the date and amount of the original invoice, and the reason for the refund or credit and the amount thereof.

(h) *Insurance.* Dollar payments of premiums for ocean marine insurance (including war risk insurance) on ECA-financed commodities procured in the United States will be eligible for financing by ECA under a commodity procurement authorization if such insurance is:

(1) Authorized by the participating country in the subauthorization issued to the importer;

(2) Placed by the importer (or by the supplier or any other person if authorized so to do by the importer in a cable, written document, or the letter of credit); and

(3) Placed at the lowest available competitive rate.

The importer, supplier, or other person placing such insurance shall furnish the procurement authorization number to the insurer. The supplier shall state the name and address of the insurer on the Invoice-and-Contract Abstract (see reverse side of Form ECA-280 set out in § 201.19 (d)).

The insurer shall file a statement with the Controller, ECA, Washington, D. C., by the twentieth of each month, setting forth the procurement authorization number for each insurance policy issued during the previous calendar month under ECA financing, and indicating in detail the character of the coverage, the amounts of such policies, amounts of premiums, names and addresses of the insured, names and addresses of persons receiving discounts or commissions in connection with such policies, and the amount of each such discount or commission. Accompanying such statement shall be a certificate in substantially the following form signed by the insurer:

The undersigned certifies to the Administrator for Economic Cooperation that the attached statement of accounts relating to ECA-financed ocean marine insurance policies is, to the best of its knowledge, complete and correct; and that the undersigned, in issuing such insurance policies, has not given or received any benefit, by way of side payments, "kickbacks" or otherwise, except as is indicated in the attached statement.

Upon settlement of a claim on account of insurance financed by ECA, the insurer shall immediately give written notice to the Controller, ECA, Washing-

ton, D. C., indicating the procurement authorization number, the name and address of the insured, and the amount of the insurance recovery. ECA will request repayment from the participating country of the dollar amount of insurance recovered by the insured.

(i) *Airmail distribution of ocean bills of lading.* The participating country will instruct importers to advise shippers to airmail at the time of loading one copy (or photostat) of ocean or charter party bill of lading or airway bill to the Controller, ECA Mission, American Embassy in the capital city of the participating country receiving the shipment.

(j) *Price limitations.* ECA will not make reimbursement directly to a participating country for the purchase in bulk of any commodities at prices higher than the market price prevailing in the United States, adjusted as provided in § 201.21, nor will ECA make reimbursement directly to a participating country for a purchase of any commodity at a price higher than the price calculated in accordance with the applicable price provisions in § 201.22; in cases of other types of reimbursement, the Administrator will demand repayment from the participating country of the entire amount so reimbursed.

(k) *Export licenses.* Where procurement is effected in the United States for any commodity covered by a procurement authorization, export licenses must be obtained from the U. S. Department of Commerce. All exports from the United States of commodities furnished under the act are subject to such export quotas as may be established and such export license control as may be exercised by the U. S. Department of Commerce.

(l) *Special provisions.* The provisions of this part may be waived, amended or supplemented by special provision in the procurement authorization, or otherwise, pursuant to § 201.24.

§ 201.7 *Ocean transportation.* (a) Ocean transportation procurement authorizations and, in the case of c. & f. (cost and freight) or c. i. f. (cost, insurance and freight) shipments, the procurement authorizations for the commodity involved, may be used by the participating country to cover dollar services furnished in connection with the shipment of:

(1) ECA-financed cargoes to the participating country on flag vessels other than those of the participating country, to the extent that payment for such services is made in dollars in accordance with the custom of the trade;

(2) Non-ECA-financed cargoes to any participating country on United States flag vessels.

(3) Non-ECA-financed cargoes on flag vessels other than those of the participating country, but only in special circumstances where specifically authorized in writing by ECA to do so pursuant to a request in writing.

(b) The rate charged by a supplier of ocean transportation services shall not exceed the prevailing rate for similar freight contracts, nor the rate paid to the supplier for similar ocean transportation services by other customers similarly situated.



(c) Reimbursement will be made as follows:

(1) *Dry bulk cargo shipments.* (i) Reimbursement will be made for cost of shipment from ports of loading to ports of discharge at rates established by charter parties.

(ii) Reimbursement for loading, trimming and other related shipping expenses may be made when such expenses are not for the account of the ship nor included in inland transportation charges.

(iii) Reimbursement will not be made for demurrage incurred in excess of dispatch earnings. Amounts earned for dispatch shall be credited first against demurrage, if any, incurred in connection with the same voyage; the balance shall then be refunded to ECA at the end of the month in which earned.

(2) *Dry cargo liner shipments.* (i) Reimbursement will be made for cost of shipment from ports of loading to ports of discharge at the rates indicated in the bill of lading, but not in excess of the conference rates for such services.

(ii) Reimbursement for related shipping expenses may be made when such expenses are not for the account of the ship nor included in inland transportation charges.

(3) *Tanker shipments.* (i) Reimbursement will be made for cost of shipment from ports of loading to next ports of loading at rates established by charter parties or contracts of affreightment.

(ii) Reimbursement for related shipping expenses may be made when such expenses are not for the account of the ship nor included in inland transportation charges.

(iii) Reimbursement will be made for demurrage.

(d) Time charters and consecutive voyage charters of United States and participating country flag vessels must be submitted to ECA, Washington, D. C., for prior review and approval. Single voyage charters of such vessels need not be submitted to ECA for approval.

Single voyage charters of vessels of other than United States or participating country flags must be submitted to ECA, Washington, D. C., for prior review and approval. Time charters and consecutive voyage charters for such vessels will not be approved by ECA.

§ 201.8 *Project authorizations.* (a) A participating country may submit from time to time to ECA for approval major industrial and commercial projects. A project will usually involve the expenditure of one million dollars or more.

(b) ECA will examine project applications to determine if they are in accordance with the objectives of the laws under which aid to the participating country is authorized, and if so may issue a project approval. This approval will cover the total ECA-financed portion of the entire project.

(c) The participating country will submit to ECA from time to time a list of the commodities and services required for the project in terms of the ECA Commodity Codes. ECA will review such applications and may approve them for procurement.

(d) Separate project procurement authorization will be issued, identified by the project number.

§ 201.9 *Provisional allotments and commodity determinations.* ECA may issue from time to time provisional allotments and commodity determinations covering commodities or services for which no current Congressional appropriation is available. Such commodity determinations will indicate that ECA will undertake to finance the furnishing of the commodities or services covered thereby only in accordance with Congressional appropriations when and if made.

§ 201.10 *Procurement by U. S. Government agencies.* When a determination has been made that any commodity or service authorized on a procurement authorization is to be procured by a U. S. Government agency, ECA will authorize the U. S. Government agency to procure the commodity or service in accordance with procedures established for such procurement.

#### SUBPART B—RESPONSIBILITIES OF IMPORTERS AND SUPPLIERS

§ 201.11 *Use of procurement authorization number.* (a) Each importer to whom a sub-authorization has been made by his Government must inform his supplier that the transaction is to be financed by ECA, and must give to his supplier the procurement authorization number that has been given to him. The importer must also inform his supplier of any special provisions which affect the supplier in carrying out the transaction.

(b) The supplier must put the procurement authorization number on all documents required for reimbursement. (See § 201.19).

§ 201.12 *Contracts and deliveries.* An importer must comply with the contract and delivery dates specified in his sub-authorization by the participating country. A supplier must not accept orders identified by a procurement authorization number unless he expects to comply with the contract and delivery dates specified in the sub-authorizations as notified to him by the importer.

§ 201.13 *Marking requirements.* Commodities furnished under the act will be stamped, tagged, stenciled, or labeled with the official ECA Emblem, bearing the text "For European Recovery, Supplied by the United States of America" translated into the language of the recipient country; samples of the Emblem, and translations, may be obtained from ECA, Washington, D. C.

If it is not practicable to mark the commodities themselves in such manner, the containers in which the commodities are packaged will be so marked. The shipping containers, whether boxes, cases, barrels, drums, hogsheads or of other types, will also bear the official ECA Emblem. The size of the ECA Emblem may vary depending upon the size of the commodity, package, or shipping container to be marked. In addition, the shipping containers will be stamped, branded, stenciled or labelled as follows:

ECA

(Procurement Authorization No.)

(Participating country)

(Shipper's marks)

The procurement authorization number and name of the participating country shall be in characters at least equal in height to the shipper's marks. The height of the ECA Emblem on the shipping container should, whenever possible, be at least twice the height of the lettering used in the shipper's marks.

Any raw materials (including coal, grain and petroleum, oil and lubricants) not shipped in containers; fibres packaged in bales; and metal and lumber mill products of a semi-finished nature which are not packaged or crated are excepted from these marking requirements. If compliance with the provisions of this section is found to be impracticable with respect to other commodities, the participating country will promptly request ECA, Washington, D. C., for an exemption from the requirements of this section.

#### SUBPART C—REIMBURSEMENT FOR ASSISTANCE

§ 201.14 *Types of reimbursement.* The financing of procurement of commodities or services may be by:

(a) Reimbursement directly to a participating country for payments made by it for procurement (see § 201.15);

(b) Issuance of letters of commitment to banking institutions in the United States, undertaking to make reimbursement for payments made by them to suppliers through commercial letters of credit or otherwise on behalf of a participating country or an approved applicant (see § 201.16);

(c) Issuance of letters of commitment to suppliers in connection with specific contracts with or on behalf of a participating country providing for payments for commodities or services (see § 201.17);

(d) Establishment of account with a Federal Reserve Bank against which drafts may be drawn by a participating country for procurement (see § 201.18);

(e) Charges to funds allocated to other departments, agencies, or establishments of the U. S. Government to cover costs incurred in procurement of commodities or services which the Administrator authorizes from time to time (see § 201.20).

§ 201.15 *Reimbursement for specific procurement payments by a participating country.* Reimbursement shall be allowed only for specific payments made by a participating country for procurement covered by procurement authorizations and supported by the documents required for reimbursement by § 201.19.

§ 201.16 *Letter of commitment to a banking institution.* (a) For the purpose of financing procurement through commercial letters of credit or other forms of bank credit, the Administrator may issue a letter of commitment to a banking institution in the United States for the purpose of assuring reimbursement, not in excess of a specified amount



in dollars and in accordance with the terms of such letter of commitment, for sight payments made for the account of an approved applicant including sight payments for procurement outside the United States (including its territories and possessions). Any such payments by a banking institution in the United States made in anticipation of a letter of commitment and falling within the scope of payments authorized by such letter when issued will be deemed to be payments to be reimbursed by the Administrator thereunder. The letter of commitment shall be substantially in the form of Exhibit I,<sup>1</sup> adapted to special circumstances.

(b) Reimbursement under a letter of commitment to a banking institution shall be effected in the amounts specified therein upon presentation of the documents required for reimbursement by § 201.19 and by the letter of commitment.

(c) Each letter of commitment to a banking institution issued shall be deemed to incorporate the following terms and provisions:

(1) The application or request for, and any agreement relating to, any commercial letter of credit issued or confirmed, or payment made, under a letter of commitment to a banking institution in the United States, may be in such form and contain such terms and provisions as the approved applicant and banking institution may agree upon, and the approved applicant and banking institution may agree to any extension of the life of, or any other modification of, or variation from, the terms of any such letter of credit or any agreement covering payments to be made by the banking institution: *Provided*, That such terms and provisions and any such extension, modification or variance are in no respect inconsistent with or contrary to the terms and provisions of the letter of commitment, and in case of any inconsistency or conflict, the terms and provisions of the letter of commitment shall control. In any event every application for a letter of credit and every request for payment shall include the substance of the directions as to documentation required for reimbursement by this part (Regulation 1), as amended.

(2) Reimbursement shall be made by the Administrator promptly (but in no event later than 30 days) after receipt by the Administrator of the documents required for reimbursement by this part, which documents in normal course should be forwarded to the Administrator promptly after the banking institution has made the payment for the amount of which reimbursement is sought.

(3) The Voucher SF 1034 (Revised) shall bear the following certification by the payee: "I certify that the above bill is correct and just; that payment therefor has not been received," shall be addressed to the Economic Cooperation Administration, and shall be signed as "Payee" by the approved applicant, or by the banking institution as agent for and in behalf of the approved applicant.

(ii) The banking institution shall have no responsibility for the truth or accuracy of the statements contained in the supplier's certificate, or invoice-and-contract abstract. The right of reimbursement for payments made by the banking institution will not be affected by the fact that such abstract may be incomplete, or may indicate non-compliance with any provision of this part, or of the procurement authorization, or of the letter of commitment, or may be inconsistent with other documents required for reimbursement.

(3) The banking institution shall make available to the Administrator, upon request, a copy of each letter of credit issued or confirmed by it, together with any extension or modification thereof; a copy of each application and agreement relating to such a letter of credit, or to a payment instruction or request, together with any extension or modification thereof; a copy of each document in its possession received by it against payment; and detailed advice of the interest, commissions, expenses, or other items charged by it in connection with each such letter of credit or payment instruction or request.

(4) Reimbursement to the approved applicant shall be made by check mailed to the banking institution and payable to its order for the account of the approved applicant.

(5) Acceptance by the banking institution of any document in the ordinary course of business in good faith as being a genuine and valid document and sufficient in the premises, and the delivery thereof to the Administrator, shall constitute full compliance by the banking institution with any provision of this part, the procurement authorization, or of the letter of commitment requiring delivery of a document of the sort that the document actually so delivered purports to be. The banking institution shall be entitled to receive and retain reimbursement of the amount of all payments made by it against documents so accepted, notwithstanding that such payments may be made in connection with a purchase at a price in excess of the market price prevailing in the United States at the time of the purchase, adjusted for differences in the cost of transportation to destination, quality, and terms of payment, or in excess of the price calculated in accordance with the applicable provisions of §§ 201.7 and 201.22.

(6) The Administrator reserves the right at any time and from time to time, and for any reason or cause whatsoever, to supplement, modify, or revoke the procurement authorization (including termination of deliveries thereunder): *Provided, however*, That no supplement, modification or revocation shall become effective as to the banking institution until the receipt by it from the Administrator of written notice of such supplement, modification or revocation, and such supplement, modification or revocation shall in no event affect or impair the right of reimbursement to the extent of any payment made prior to receipt of such notice, or any obligation incurred under an irrevocable letter of credit issued or confirmed prior to receipt of such notice, for which the banking institution

has not been repaid by the approved applicant (without however any obligation on its part to obtain such repayment). The term "procurement authorization" as used in a letter of commitment shall be deemed to include each such supplement or modification from and after receipt by the banking institution from the Administrator of written notice of the same, subject always however to the foregoing terms and provisions preserving rights of reimbursement in its behalf.

(7) In the event the Administrator shall direct termination of deliveries under the procurement authorization or revoke such procurement authorization or supplement or modify the same in relation to the disposition of any document or documents and shall give the banking institution written notice thereof, the banking institution shall in all respects comply with the instructions of the Administrator to the extent it may do so without impairing or affecting any irrevocable obligation or liability theretofore incurred by it under any letter of credit issued or confirmed by it, and it shall be repaid and reimbursed by the Administrator for the costs, expenses and liabilities paid or incurred by it in relation to such instruction. The banking institution shall have no obligation or liability whatsoever to the approved applicant for anything done or omitted to be done by it pursuant to such instructions of the Administrator.

(8) In the event that the banking institution shall file with ECA a certificate in the form required by § 201.19 (a) (3) (ii), it shall be repaid and reimbursed by the Administrator for the costs, expenses and liabilities paid or incurred by it subsequent to the receipt by ECA of the certificate, as a result either of its following instructions received from the Administrator, or of its continued holding of documents pending the receipt of such instructions.

(9) The letter of commitment shall inure to the benefit of the banking institution's legal successors and assigns.

§ 201.17 *Letter of commitment to a supplier.* (a) For the purpose of financing specific procurement contracts, the Administrator may issue a letter of commitment to a supplier assuring reimbursement under such contract not in excess of a specified amount of dollars. The letter of commitment will be issued only in connection with a specific contract, will specify the procurement authorization under which it is issued, and will contain such further provisions as may be required by the Administrator.

(b) The monies due or to become due under such letter shall be assignable by the supplier only through signing the certification in the space provided on the letter, and only to a banking institution in the United States. If a notice of assignment is sent to the Administrator and the General Accounting Office under the Assignment of Claims Act of 1940, such notice shall not be effective unless the date and fact of such notice is indicated on the letter of commitment.

(c) Reimbursement under a letter of commitment to a supplier shall be effected in the amounts specified therein upon presentation of the documents re-

<sup>1</sup> Filed with the original document.



quired for reimbursement by § 201.19 and the letter of commitment.

§ 201.18 *Account in a Federal Reserve Bank against which drafts may be drawn by a participating country.* (a) The Administrator may establish an account with a Federal Reserve Bank against which a participating country may be authorized, subject to such rules as may be established by the Administrator, to draw drafts up to a specified maximum amount in favor of suppliers, prior to submission of full documentation as required by § 201.19. On the reverse side of such draft shall be a payee-supplier's certificate to be executed by the payee thereof in negotiating, or receiving payment under, the draft. No endorsement of such a draft, except that of the payee, shall impose any responsibility on the endorser for the payee-supplier's certificate or for the execution thereof.

(b) The participating country shall file promptly with the appropriate Federal Reserve Bank a copy of each draft drawn against the account; and with ECA, a copy of each draft drawn against the account, accompanied by an executed supplier's certificate, in duplicate, with invoice-and-contract abstract on reverse side (Form ECA-280,<sup>1</sup> set out in § 201.19 (d)). Full documentation as required by § 201.19 shall be submitted to ECA within 90 days after the date of the draft, subject, however, to the provisions of § 201.5 (c) and (d) (2).

§ 201.19 *Documents required for reimbursement.* Claims for reimbursement must be supported by the following documents (each of which must be identified by the appropriate procurement authorization number), except when and to the extent specifically waived in writing by the Administrator:

(a) For cost of any commodity, including ocean freight in c. & f. (cost and freight), and ocean freight and insurance in c. i. f. (cost, insurance and freight) transactions:

(1) Voucher SF-1034 (Revised) in original and three copies, to be prepared by the supplier or his assignee where letter of commitment is issued by ECA to the supplier; or in other cases, by the participating country, by the approved applicant, or by the banking institution as assignee, or as agent for and in behalf of the approved applicant.

(2) Supplier's certificates, in duplicate, with invoice-and-contract abstract on reverse side (Form ECA-280, set out in paragraph (d) of this section), covering the following:

(i) The cost of the commodity, including ocean freight in c. & f., and ocean freight and insurance in c. i. f. transactions, to be executed by the supplier of the commodity.

(ii) The cost of ocean freight in c. & f. and c. i. f. transactions, to be executed by the carrier.

In the case of financing by reimbursement directly to a participating country for payments made by it for procurement (this does not include financing by letters of commitment to banking institutions in the United States, letters

of commitment to suppliers, or drafts drawn on a Federal Reserve Bank), ECA will accept, in lieu of either of the above, a supplier's certificate in duplicate, with invoice-and-contract abstract completed in all applicable respects except as to class of supplier, information as to agents' commissions, domestic and foreign, and domestic unit price information, and containing the following signed certificate on the abstract: "The undersigned certifies that he has filled in and sent to the Controller, ECA, Washington, D. C., a third copy of this form on which all applicable information omitted above has been given."

If such alternative procedure is used, the signer of the supplier's certificate shall be deemed to have satisfied the requirement in paragraph (10) of the supplier's certificate that he has filled in the applicable portions of the invoice-and-contract abstract.

(3) One copy (or photostat) of ocean or charter party bill of lading, or airway bill, or parcel post receipt.

In the case of tanker shipments only, one copy (or photostat) of cablegram from ship's agent showing loaded cargo figures and a certificate by the supplier that the bill of lading is not immediately available, and that a copy (or photostat) of the bill of lading will be submitted by the supplier to Controller, ECA, Washington, D. C., within 90 days from the date of loading.

In the case of any commodity financed under letter of commitment to a banking institution in the United States, ECA will accept in lieu of an ocean or charter party bill of lading, airway bill, or parcel post receipt, a certificate from the banking institution to the effect that it has been informed by the approved applicant or the supplier that the sale is on an f. o. b., or f. a. s. basis, that it is impracticable to furnish an ocean or charter party bill of lading, airway bill or parcel post receipt, and that either:

(i) The banking institution has received a common carrier bill of lading, warehouse receipt, mate's receipt, master's receipt, or dock receipt and, in accordance with the instructions of the approved applicant, has delivered or sent the same to a person or organization designated by the approved applicant against the written undertaking of the recipient both to arrange for ocean shipment and to deliver to the banking institution a copy (or photostat) of the ocean or charter party bill of lading, airway bill, or parcel post receipt, which is to be forwarded to ECA by the banking institution when and if received by it; or

(ii) The banking institution has received a common carrier bill of lading, warehouse receipt, mate's receipt, master's receipt, or dock receipt and is in possession of the same; the banking institution has been unable to deliver the same to a person or organization designated by the approved applicant against the written undertaking of the recipient both to arrange for ocean shipment and to deliver to the banking institution a copy (or photostat) of the ocean or charter party bill of lading, airway bill, or parcel post receipt; and the banking institution is holding the common carrier bill of lading, warehouse receipt, mate's

receipt, master's receipt, or dock receipt, subject to the instructions of ECA, except that if, before any such instructions are received, the banking institution is able to obtain the above-described written undertaking, it will proceed in accordance with subdivision (i) of this subparagraph.

(4) One copy (or photostat) of supplier's detailed invoice showing quantity, description, gross sales price, net sales price (after deducting all discounts and purchasing agents' commissions applicable) and basis of delivery (e. g., f. o. b. vessel, f. a. s.) of the commodities or services, and either (i) marked "Paid" by the supplier or (ii) endorsed by, or accompanied by a certificate of, an officer of a banking institution indicating that payment has been made in the amount shown on the invoice.

(5) Such additional documentation as may be required for reimbursement by endorsement upon the procurement authorization.

(b) For cost of ocean transportation, including ocean freight paid by the supplier of the commodity in f. o. b. and f. a. s. transactions:

(1) Voucher SF-1034 (Revised) in original and three copies to be prepared by the participating country, by the approved applicant, or by the banking institution as assignee, or as agent for and in behalf of the approved applicant.

(2) Supplier's certificate, in duplicate, with invoice-and-contract abstract on reverse side (Form ECA-280, set out in paragraph (d) of this section), to be executed by the supplier of the ocean transportation. If the supplier of ocean transportation is not the carrier, an additional supplier's certificate, in duplicate, with invoice-and-contract abstract on reverse side, executed by the carrier, covering the cost of ocean freight.

In the case of financing by reimbursement directly to a participating country for payments made by it for procurement (this does not include financing by (i) letters of commitment to banking institutions in the United States, (ii) letters of commitment to suppliers, or (iii) drafts drawn on a Federal Reserve Bank), ECA will accept, in lieu of either of the above, a supplier's certificate, in duplicate, with invoice-and-contract abstract completed in all applicable respects except as to class of supplier, information as to agents' commission, domestic and foreign, and domestic unit price information, and containing the following signed certificate on the abstract: "The undersigned certifies that he has filled in and sent to the Controller, ECA, Washington, D. C., a third copy of this form on which all applicable information omitted above has been given."

If such alternative procedure is used, the signer of the supplier's certificate shall be deemed to have satisfied the requirement in paragraph (10) of the supplier's certificate that he has filled in the applicable portions of the invoice-and-contract abstract.

(3) For cargoes shipped under charter party, one copy (or photostat) of charter party. In the case of tanker shipments only, if shipment is not made

<sup>1</sup> Filed with the original document.



under charter party, one copy (or photostat) of the contract of affreightment.

In the case of a term charter party or term contract of affreightment, ECA will accept, in lieu of either of the above, a certificate by the supplier of the ocean transportation, to the effect that a copy (or photostat) of the charter party or contract of affreightment has previously been submitted to ECA in support of a request for reimbursement.

(4) One copy (or photostat) of ocean or charter party bill of lading or airway bill. In the case of tanker shipments, only, one copy (or photostat) of cablegram from ship's agent showing loaded cargo figures, and a certificate by the supplier of the ocean transportation that the bill of lading is not immediately available, and that a copy (or photostat) of the bill of lading will be submitted by the supplier of the ocean transportation to the Controller, ECA, Washington, D. C., within 90 days from date of loading.

(5) One copy (or photostat) of the detailed invoice of the supplier of the ocean transportation indicating the vessel, flag and the dollar cost of ocean freight and related transportation charges, and either (i) marked "Paid" by the supplier of the ocean transportation or (ii) endorsed by, or accompanied by a certificate of, an officer of a banking institution indicating that payment has been made in the amount shown on the invoice. If the bill of lading (required as subparagraph (4) of this paragraph) meets the requirements of this subparagraph, no invoice is required. Claim for cost of tanker demurrage may be submitted separately and must be supported by the documentation required by this paragraph, except for subparagraphs (3) and (4).

(c) For cost of services (other than ocean transportation):

(1) Voucher SF-1034 (Revised) in original and three copies, to be prepared by the supplier or his assignee where letter of commitment is issued by ECA to the supplier; or in other cases, by the participating country, by the approved applicant, or by the banking institution as assignee, or as agent for and in behalf of the approved applicant.

(2) Supplier's certificate, in duplicate, with invoice-and-contract abstract on reverse side (Form ECA-280, set out in paragraph (d) of this section).

In the case of financing by reimbursement directly to a participating country for payments made by it for procurement (this does not include financing by (i) letters of commitment to banking institutions in the United States, (ii) letters of commitment to Suppliers, or (iii) drafts drawn on a Federal Reserve Bank), ECA will accept, in lieu of the above, a supplier's certificate, in duplicate, with invoice-and-contract abstract completed in all applicable respects except as to class of supplier, information as to agents' commissions, domestic and foreign, and domestic unit price information, and containing the following signed certificate on the abstract: "The undersigned certifies that he has filled in and sent to the Controller, ECA, Washington, D. C., a third copy of this

form on which all applicable information omitted above has been given."

If such alternative procedure is used, the signer of the supplier's certificate shall be deemed to have satisfied the requirement in paragraph (10) of the supplier's certificate that he has filled in the applicable portions of the invoice-and-contract abstract.

(3) One copy (or photostat) of supplier's detailed invoice showing description of services and price, and either (i) marked "Paid" by the supplier, or (ii) endorsed by, or accompanied by a certificate of, an officer of a banking institution indicating that payment has been made in the amount shown on the invoice.

(4) Certificate of the participating country that the services have been completed in accordance with the terms of the contract, and that any reports or recommendations required under the terms of said contract have been received.

(5) Such additional documentation as may be required for reimbursement by endorsement upon the procurement authorization.

(d) The supplier shall in all cases execute the supplier's certificate (Form ECA-280) referred to in paragraphs (a) (2), (b) (2) and (c) (2) of this section, which certificate is as follows:

ECA 280 (4-49) —

Economic Cooperation Administration

#### SUPPLIER'S CERTIFICATE

ECA Proc. Auth. No. \_\_\_\_\_

The supplier hereby acknowledges notice that the sum of \$\_\_\_\_\_ which is claimed by him to be due and owing under the terms of the underlying contract, is to be paid out of funds made available by the United States under the Foreign Assistance Act of 1948 as amended, and further certifies and agrees with the Administrator as follows:

(1) The supplier is entitled under said contract to the payment of the claimed sum, and he will promptly make appropriate reimbursement to the Administrator in the event of his nonperformance, in whole or in part, under said contract, or for any breach by him of the terms of this certificate.

(2) Adjustment refunds or credits arising out of the terms of the contract or the customs of the trade shall be made direct to the buyer, but the supplier will promptly notify the Administrator concerning any such adjustment refunds or credits, so that the Administrator may obtain appropriate refund from the participating country. If an adjustment results in an additional charge to the purchaser, the supplier will promptly notify the Administrator of such additional charge.

(3) If the said contract is on a c&f (cost and freight) or a cif (cost, insurance and freight) basis, the supplier is entitled to payment, under ECA Regulation 1, as amended, of any ocean freight charges included in the sum claimed. The supplier is entitled to payment, under ECA Regulation 1, as amended, of any ocean marine insurance premium charges included in the sum claimed.

(4) The supplier is the producer, manufacturer, processor, or exporter of, or a regular dealer in the commodity, or furnishes the service covered by said contract and has not employed any person to obtain said contract under any agreement for a commission, percentage, or contingent fee, except to the extent, if any, of the payment of a commission to a bona fide established commercial or selling agent employed by the supplier as disclosed on the reverse of this form.

(5) The supplier has not given or received and will not give or receive by way of side payments, "kickbacks," or otherwise, any benefit in connection with said contract except as is disclosed on the reverse of this form, or as is the result of the adjustments referred to in Paragraph 2.

(6) If the supplier is the producer, manufacturer or processor of a commodity, said contract is not a cost plus-a-percentage-of-cost contract.

(7) The supplier further certifies, on the basis of information obtained from such sources as are available to him, that to the best of his information and belief the purchase price is no higher than the market price (which shall mean the export market price, where such a price is customary in the trade) prevailing in the United States at the time of purchase, adjusted for differences in the cost of transportation to destination, quality, and terms of payment.

(8) The supplier further certifies that (a) on the basis of information obtained from such sources as are available to him, and to the best of his information and belief, the purchase price is no higher than the price calculated in accordance with the applicable price provisions of ECA Regulation 1, as amended, and he has complied with the rules provided therein; and (b) he has allowed all discounts, including discounts for quantity purchases and prompt payment, customarily allowed his other customers similarly situated.

(9) If the supplier furnishes only a service, he shall not be deemed to certify to paragraphs 7 and 8 but instead certifies that the rate indicated on the reverse of this form for the service rendered does not exceed the prevailing rate, if any, for similar services, or the rate paid to the supplier for similar services by other customers similarly situated.

(10) The supplier has filed in the applicable portions of the invoice-and-contract abstract on the reverse hereof, certifies to the correctness of the information shown therein, and will furnish promptly to the Administrator at his request such additional information in such form as the Administrator may require concerning price or any other details of the purchase.

Date \_\_\_\_\_

(Authorized signature)

NOTE: Any amendments, deletions of applicable provisions, or substitutions will invalidate this certificate.

Before executing the supplier's certificate, the supplier shall fill in the invoice-and-contract abstract on the reverse side in accordance with the instructions attached to the form. The information required by the abstract is generally as follows:

(1) Invoice information, including the supplier's name and address, the importer's name and address, and detailed billing and shipping data.

(2) Information relating to agents' commissions payable, including a statement as to whether any agent is believed by the supplier to be foreign.

(3) Contract and price information, including a reconciliation of the contract, invoice and domestic unit prices applicable.

§ 201.20 Procurement by U. S. Government agencies. When procurement of a commodity or service is made through U. S. Government procurement facilities in accordance with § 201.10, an allocation of funds to the procuring department, agency or establishment will be made by the Administrator.



## SUBPART D—PRICE PROVISIONS

§ 201.21 *Purchase in bulk of commodities.* (a) *Definition.* The term "adjusted market price" means the market price prevailing in the United States at the time of the purchase, adjusted for differences in the cost of transportation to destination, quality, and terms of payment, as determined by the Administrator.

(b) *Scope.* This section establishes the procedures for compliance with section 112 (1) of the act and section 202 of the Foreign Aid Appropriation Act, 1949, which sections apply to all purchases in bulk, except those where, before June 28, 1948, both:

(1) A binding purchase contract was in effect between the parties in which the price, or the method for determining the price, was established, and

(2) The Procurement Authorization was issued. In such excepted cases, any statement in the supplier's certificate relating to the provisions of this section shall be deemed to be waived by ECA.

(c) *Determination of adjusted market price.* Determination of the adjusted market price may be made by the Administrator in such manner as to reflect commonly accepted trade practices. In the case of purchases in bulk made outside the United States, the Administrator may determine that the purchase price complies with said sections 112 (1) and 202 if he determines that such price, plus cost of transportation and related charges from place of purchase to the participating country at established rates, does not exceed the market price prevailing in the United States (adjusted for differences in quality and terms of payment), plus cost of transportation and related charges at established rates to the participating country. If the price of any purchase in bulk exceeds the adjusted market price, the participating country shall pay promptly to the Administrator upon demand the entire amount of the purchase price.

§ 201.22 *Purchase prices—(a) Scope of this section.* (1) Section 112 (1) of the act and section 202 of the Foreign Aid Appropriation Act of 1949 establish an upper limit to the prices that may be approved by ECA for purchases in bulk of commodities (see § 201.21). Within that limitation, it is the policy of ECA to make payment only for purchases of commodities, whether or not in bulk, which are made at prices that approximate, as nearly as practicable, lowest competitive market prices. It is expected that buyers, exercising prudence in their negotiations, will agree to pay no more than such prices.

The rules set forth in this section are intended as a guide to buyers and sellers in conducting their negotiations. The rules in this part fix the point beyond which purchases will not be eligible for reimbursement by ECA. Compliance with them will make a purchase eligible for financing, and post-audit will be made by ECA to determine whether there has been compliance. If it appears that the objective of lowest competitive market prices is not being met, ECA will take appropriate action to impose additional limitations.

(2) The provisions of this section shall apply to all purchases, except those where both:

(i) A binding purchase contract was in effect between the parties before May 17, 1949, in which the price, or the method for determining the price, was established and

(ii) The procurement authorization was issued before May 3, 1949. In such excepted cases, any statement in the supplier's certificate relating to the provisions of this section shall be deemed to be waived by ECA.

(b) *Meaning of terms in this section—*

(1) *Similar commodity.* One commodity shall be deemed similar to another commodity, if both have the same use, afford the purchaser equivalent serviceability, and belong to a type which would ordinarily be sold in the same price line.

(2) *Comparable sale.* The term "comparable sale" includes all sales which are comparable as to quantity, quality, grade, period of delivery, supply area, terms of sale and class of customer.

If special market conditions exist in a country other than the United States, a sale for export to such country shall not necessarily be deemed to be comparable to a sale for export to any other country.

(3) *Competitive sellers.* "Competitive sellers" shall mean sellers of the same class (manufacturers, merchant exporters, etc.) who are selling the same or similar commodities from the same supply area.

(4) *Manufacturers, producers or processors.* "Manufacturers, producers or processors" shall mean sellers who operate a factory, mill, assembly plant, well, mine or similar facility in which by mechanical or chemical apparatus or other similar means, raw materials or ingredients are processed, component parts assembled or manipulated, in the preparation of the product for sale. A seller shall not be deemed to be a manufacturer, producer or processor in an export sale which involves a commodity which he did not manufacture, produce or process.

(5) *Export differential.* "Export differential" shall mean the difference between a domestic sale price and an export sale price computed either as a percentage of the domestic price or in accordance with any other established practice of the seller.

(6) *Time of purchase.* "Time of purchase" shall mean the day as of which the purchase price, or the method for determining the price, is established between the buyer and the seller.

(c) *Comparison of prices.* (1) Wherever, in this section the term "same or a similar commodity" is used, comparison, where possible, shall be made with reference to the same commodity. Where such comparison is not possible, comparison shall then be made with reference to a similar commodity.

(2) Wherever, in this section, a comparison with a domestic sales price is required and such domestic price is on a different delivered basis than the export sales price as, for example, where the domestic price is on an f. o. b. plant basis and the export price is on an f. a. s. basis, addition of inland transportation costs and other related and necessary in-

land costs to the domestic price may be made in order to afford a proper comparison with the export sales price.

(3) This section requires comparison of a purchase price with other prices at the "time of purchase." In cases where a purchase price is established between the parties substantially in advance of the day on which delivery is to be made, the Administrator may refuse to recognize such price for reimbursement, if:

(i) The price is excessive in comparison with other prices for the same or a similar commodity at the time of delivery, and

(ii) It is not customary in the trade for such a long term contract to be made or, it is not customary for such a contract to be made without a provision for a change in price to reflect generally prevailing prices for the commodity at the time of delivery.

(d) *Prices for purchases in the United States—(1) Class I; certain listed commodities.* (i) Transactions in Class I shall include all purchases in the United States of any of the following listed commodities:

Cotton, raw.	Sisal or henequen fiber.
Cotton linters.	Isle or tula fiber.
Cotton waste	Couch grass or broom root fiber.
Silk, raw.	Jute fiber.
Wool, raw.	Coir or cocos fiber.
Soft hemp.	Animal hairs other than wool.
Flax fiber.	Wheat.
Ramie fiber.	Soap.
Abaca or manila fiber.	Soybeans.
Rye.	Soybean oil.
Corn.	Sperm oil.
Oats.	Sunflower seed.
Barley.	Sunflower seed oil.
Grain sorghum.	Tallow.
Buckwheat.	Tung oil.
Rye flour.	Whale oil.
Wheat flour.	Cottonseed cake or meal.
Corn flour.	Soybean cake or meal.
Corn grits.	Linseed cake or meal.
Cornmeal.	Peanut cake or meal.
Roller oats.	Other oilseed cakes and meals.
Soy flour.	Wheat mill feeds.
Rice.	Mixed animal and poultry feeds.
Babassu kernels or nuts.	Fish scrap and meal.
Castor beans.	Corn byproducts feeds.
Castor oil.	Milk byproducts feeds.
Cocoa butter.	Meat byproducts feeds.
Cottonseed oil.	Brewers and distillers byproducts feeds.
Coconut oil.	Turpentine.
Copra.	Natural resins.
Fatty acids; animal, vegetable or marine origin.	Tail oil, crude and refined.
Fish oils.	Beans, dry edible.
Flaxseed.	Cocoa beans.
Grease, inedible.	Coffee, green.
Lanolin.	Fruit, dried.
Lard.	Fruit, fresh.
Linseed oil.	Peas, dry edible.
Mustard seed.	Sugar, raw.
Mustard seed oil.	Sugar, refined.
Neat's-foot oil.	
Olive oil.	
Palm oil.	
Palm kernels.	
Palm kernel oil.	
Peanuts.	
Peanut oil.	
Rapeseed.	
Rapeseed oil.	
Sesame seed.	
Sesame seed oil.	

(ii) The price (not including ocean freight or ocean marine insurance) for a Class I purchase shall not exceed the price prevailing in the United States in



comparable sales of the commodity, at the time of the purchase, as evidenced by current bid and ask quotations in the appropriate market, adjusted by costs customarily and necessarily incurred in making the export sale.

(2) *Class II; purchases of unlisted commodities from manufacturers, producers or processors (primary sellers).*

(i) Transactions in Class II shall include all purchases in the United States from a manufacturer, producer, or processor of any commodity except commodities listed in Class I, or subject to special rules under Class IV below.

(ii) The price (not including ocean freight or ocean marine insurance) for a Class II purchase shall in no case exceed any price charged by the supplier at the time of purchase in a comparable export sale of the same or a similar commodity.

Nor shall it exceed the sum of the applicable figures determined under subdivisions (a) and (b) below:

(a) *Domestic price base.* The price charged by the supplier in comparable domestic sales of the same or a similar commodity made during the period in which the supplier's current domestic prices have been in effect. If, during that period, more than one price was charged in such sales, the figure under this subdivision (a) shall be the price charged in the comparable domestic sale made nearest, in point of time, to the purchase being submitted for ECA reimbursement.

If the supplier made domestic sales of the same or a similar commodity during the aforementioned period, but such sales were not comparable, the figure under this subdivision (a) shall be the price charged in the domestic sale made nearest, in point of time, to the purchase being submitted for ECA recognition, adjusted by the supplier's customary differential between such sales and the sale involved in the ECA transaction.

If the supplier made no domestic sales of the same or a similar commodity during the aforementioned period, the figure under this subdivision (a) shall be the price prevailing in the United States at the time of purchase, in comparable domestic sales of the same or a similar commodity by the supplier's competitive sellers.

(b) *Export differential.* An export differential, if any, customarily used by the supplier in comparable sales of the same or a similar commodity or currently being used by the supplier in comparable non-ECA sales of the same or a similar commodity.

If the supplier has not previously made any export sales of the same or a similar commodity, the figure under this subdivision (b) shall be an export differential which would be recognized for reimbursement by ECA, in comparable sales, at the time of purchase of the same or a similar commodity by any of the supplier's competitive sellers.

(iii) With respect to Class II transactions, ECA may refuse to recognize for reimbursement any purchase price which includes an export differential that is patently out of line with appropriate export differentials of the supplier's competitive sellers.

(3) *Class III; purchases of unlisted commodities from sellers (secondary sellers) other than manufacturers, producers or processors.* (i) Transactions in Class III shall include all purchases within the United States from a seller other than a manufacturer, producer or processor of any commodity except commodities listed in Class I or subject to special rules under Class IV below.

(ii) The price (not including ocean freight or ocean marine insurance) for a Class III purchase shall in no case exceed any price charged by the supplier at the time of purchase in a comparable export sale of the same or a similar commodity, except to the extent necessary to reflect a difference in his acquisition cost of the commodity.

Nor shall it exceed the sum of the applicable figures determined under subdivisions (a) and (b) below:

(a) *Domestic price base.* The domestic price of the manufacturer, producer or processor of the commodity, in effect at the time of the purchase by the importer.

If the supplier is unable to ascertain the domestic price of the manufacturer, producer or processor of the commodity, the figure under this subdivision (a) shall be the domestic price of manufacturers, producers or processors of the same or a similar commodity, prevailing at the time of purchase by the importer.

If the same or a similar commodity is not sold in the domestic market, the figure under this subdivision (a) shall be the supplier's cost of acquisition.

(b) *Export differential.* An export differential, if any, customarily used by the supplier in comparable sales of the same or a similar commodity or currently being used by the supplier in comparable non-ECA sales of the same or a similar commodity.

If the supplier has not previously made any export sales of the same or a similar commodity the figure under this subdivision (b) shall be an export differential which would be recognized for reimbursement by ECA, in comparable sales at the time of purchase of the same or similar commodity by any of the supplier's competitive sellers.

(iii) With respect to Class III transactions, ECA may refuse to recognize for reimbursement any purchase price which includes an export differential that is patently out of line with appropriate export differentials of the supplier's competitive sellers.

(4) *Class IV; special rules for certain commodities.* Special rules for certain commodities may be established, from time to time, by the Administrator.

(c) *Prices for purchases outside the United States—(1) Commodities listed in Class I above.* (i) The price plus cost of transportation to the port of entry in the participating country for a purchase outside the United States of a commodity listed in Class I above, shall not exceed the price prevailing in the United States in comparable sales of the commodity at the time of purchase, as evidenced by current bid and ask quotations, adjusted by costs customarily and necessarily incurred in making the export sale, plus cost of transportation to

the port of entry in the participating country.

Nor shall the price exceed the prevailing export market price at the time of purchase in comparable sales of the commodity from the source country.

(ii) *Sugar.* In addition, in the case of sugar, the purchase price shall not exceed the world price as derived from the daily market quotation on World Raws, No. 4 Contract, F. A. S. Cuban Ports, adjusted for differences in quality, bagging, cost of transportation to destination, and other appropriate considerations.

(2) *Unlisted commodities.* A price for a purchase outside the United States of a commodity which is not listed in Class I above or subject to special rules under Class IV above will be approved for reimbursement if:

(i) It does not exceed any price charged by the supplier at the time of purchase in a comparable export sale of the same or a similar commodity; and

(ii) It does not exceed the export market price prevailing at the time of purchase in comparable sales of the same or a similar commodity by the "principal suppliers" in the source country, determined by applying to that country as nearly as may be, the rules set forth in paragraph (d) (2) of this section; and

(iii) It results in a delivered cost to the port of entry in the participating country no higher than the delivered cost which would have been incurred in a purchase for export of the same or a similar commodity from one of the "principal suppliers" in the United States.

For the purposes of this subparagraph, a supplier shall be deemed a "principal supplier" if he is one of the group of the largest volume suppliers responsible for 50 percent of the export sales of the commodity from the United States, or source country, whichever is applicable.

#### SUBPART E—RESPONSIBILITIES OF BANKING INSTITUTIONS

§ 201.23 *Responsibilities of banking institutions in connection with letters of commitment issued to them.* (a) Documents required for reimbursement are enumerated in § 201.19. Any additional documents required for reimbursement with respect to any particular transaction will be specified as such in the procurement authorization related to that transaction and to the corresponding letter of commitment, or in the letter of commitment itself. A banking institution in the United States (called "bank" in this subpart) holding a letter of commitment is not required by ECA to obtain any documents other than those enumerated in § 201.19 and any additional documents so specified.

(b) A bank is not responsible for the truth or accuracy of the statements contained in any of the documents required for reimbursement. A bank is not obliged to look beyond these documents nor to make independent investigation as to the accuracy of statements made therein.

(c) A bank's examination of the documents required for reimbursement must

<sup>1</sup> In paragraphs (c), (e), (f), (g), and (h) of this section, the phrase "documents required for reimbursement" does not include the invoice-and-contract abstract, as to which, see § 201.18 (c) (2) (ii).



be made in accordance with good commercial practice. A bank is responsible to see that the documents required for reimbursement are consistent with the relative procurement authorization and letter of commitment in the following particulars, and no other:

(1) Delivery, to the extent described in paragraph (d) of this section;

(2) Source, to the extent described in paragraph (e) of this section;

(3) Destination, to the extent described in paragraph (f) of this section;

(4) Description, to the extent described in paragraph (g) of this section;

(5) Discounts and purchasing agents' commissions, to the extent described in paragraph (h) of this section;

(6) If the bank is to be responsible for any additional particulars, these will be specified in the procurement authorization or letter of commitment as additional documents required for reimbursement, or as additional statements to be contained in the documents required for reimbursement.

The right of reimbursement for payments made by a bank in accordance with good commercial practice will not be affected by the information contained in the invoice-and-contract abstract, nor, except with respect to those particulars listed in subparagraphs (1) through (6) of this paragraph, by the fact that the other documents received by the bank, or information or notice received from any other source, indicate non-compliance with any provision of this part, or of the procurement authorization, or of the letter of commitment.

The foregoing shall not be construed to limit any rights the Administrator may have against a supplier by reason of statements contained in the supplier's certificate, nor against a participating country under § 201.6 (d).

(d) *Delivery.* Sections 201.5 (a) (3) and 201.5 (d) (1) permit delivery under a delivery quarter procurement authorization at any time after the date of issuance or 60 days prior to the beginning of the calendar quarter indicated on the procurement authorization, whichever date is earlier, up to and including 90 days subsequent to the last day of the quarter. Sections 201.5 (b) (3) and 201.5 (d) (1) permit delivery under a serial number procurement authorization at any time on or after the initial delivery date and on or before the terminal delivery date specified on the procurement authorization. If any of the documents specified in § 201.19 (a) (3), (b) (4), or (c) (3) (or in the procurement authorization or letter of commitment) are dated at any time within the period during which delivery is permissible under the above subsections, or any other period permitted by ECA, they are acceptable. In practice, it is contemplated that each letter of commitment will specify a maturity date not later than 30 days subsequent to the end of such periods.

NOTE: The 60 days before, referred to above, are to be construed as two calendar months or 60 days, whichever is longer. The 90 days after are to be construed as 3 calendar months or 90 days, whichever is longer.

(e) *Source.* If the documents required for reimbursement show shipment from

or storage in the area shown as "source" in the procurement authorization, they are acceptable. If such documents show shipment from or storage in another area, the requirement as to source will be satisfied if the bank receives a certificate from the supplier, indicating that the area of "source," as that term is defined in § 201.1 (k), is in fact the same as that indicated in the procurement authorization.

(f) *Destination.* The procurement authorization will show the recipient country. If the documents required for reimbursement are consistent, under good commercial practice, with shipment or trans-shipment to such country, they are acceptable.

(g) *Description.* The procurement authorization will show the commodity or services by description and ECA commodity code number. In issuing or confirming credits, a bank should see that the commodities or services described are not inconsistent with the ECA description and commodity code number. In making payments, whether under letters or otherwise, the bank should act in accordance with good commercial practice, based on the description contained in the documents required for reimbursement, and without regard to the commodity code number.

(h) *Discounts and purchasing agents' commissions.* A bank is not required to make independent inquiry as to whether an invoice price includes either discounts, or commissions payable to purchasing agents, but should not make payment of any such items when disclosed by the documents required for reimbursement.

(i) *General provisions of procurement authorizations.* Section 201.6 sets forth certain provisions to be deemed incorporated in each procurement authorization, unless otherwise specified. The documents required for reimbursement by § 201.19 include a supplier's certificate showing compliance with some of these provisions. A bank is entitled to rely on such certificate. Special certificates may also be required by the terms of particular procurement authorizations or letters of commitment; in such cases, a bank is entitled to rely on such certificates.

Certain other provisions of § 201.6 are included solely for the instruction of suppliers, purchasers, and the participating countries themselves, and are not matters for which banks are to assume responsibility. In this category are the provisions of § 201.6 (f) (2); § 201.6 (g); § 201.6 (h); § 201.6 (i); § 201.6 (j) and § 201.6 (k).

(j) *Ocean transportation.* A bank which obtains a supplier's certificate is not required to assume responsibility for compliance with § 201.7, regardless of whether other documentation or information received indicates compliance or non-compliance with such section.

(k) *Contracting and reporting under procurement authorizations.* Banks financing transactions under letters of commitment or procurement authorizations are not required to assume responsibility for compliance with the provisions of § 201.5 (a) (1) and (2), or § 201.5 (b) (1) and (2).

(l) *Responsibilities of importers and suppliers.* Subpart B of this part (§§ 201.11 to 201.13) contains provisions concerning use of the procurement authorization number, placement of orders and delivery dates, and markings of commodities. Banks financing transactions under letters of commitment or procurement authorizations are not required to assume responsibility for compliance with this subpart.

(m) *Bank letter of commitment; expiration in letter of credit transactions.* The letter of commitment constitutes an obligation to reimburse for any drafts negotiated under letters of credit prior to the date of maturity specified in the letter of commitment, even though such drafts are paid after such date.

(n) *Bank letter of commitment; payment to third persons.* The right of reimbursement for a payment made by a bank under a letter of commitment will not be affected by the fact that such payment is made to the approved applicant named in the letter of commitment or, at the request of the approved applicant, to a person other than the supplier, provided the bank has complied with the other requirements of the letter of commitment and has satisfied itself in good faith that the person to whom it makes payment has made payment to the supplier.

§ 201.24 *Saving clause.* The Administrator may waive, withdraw, or amend at any time, or from time to time any or all of the provisions of this part.

*Transitory provision.* This revision of ECA Regulation 1 will take effect, subject to the special provisions, if any, of procurement authorizations and letters of commitment, on November 15, 1949, but will not be applicable to claims for reimbursement for payments made to a supplier pursuant to letters of credit issued, confirmed, or advised, or payment instructions received, prior to November 15, 1949.

WILLIAM FOSTER,  
Acting Administrator for  
Economic Cooperation.

[F. R. Doc. 49-8764; Filed, Oct. 31, 1949;  
8:53 a. m.]

## TITLE 24—HOUSING AND HOUSING CREDIT

### Chapter VIII—Office of Housing Expediter

[Controlled Housing Rent Reg., Amdt. 182]

[Controlled Rooms in Rooming Houses and  
Other Establishments Rent Reg., Amdt.  
180]

### PART 825—RENT REGULATIONS UNDER THE HOUSING AND RENT ACT OF 1947, AS AMENDED

#### ILLINOIS, KENTUCKY AND OHIO

The Controlled Housing Rent Regulation (§§ 825.1 to 825.12) and the Rent Regulation for Controlled Rooms in Rooming Houses and Other Establishments (§§ 825.81 to 825.92) are amended in the following respects:

1. Schedule A, Item 82b, is amended to describe the counties in the Defense-Rental Area as follows:



In McLean County, the Townships of City of Bloomington, Bloomington, and Normal.

This decontrols the entire Bloomington, Illinois, Defense-Rental Area, except the Townships of City of Bloomington, Bloomington and Normal, all in the State of Illinois.

2. Schedule A, Item 85b, is amended to read as follows:

(85b) [Revoked and decontrolled.]

This decontrols the entire Jacksonville, Illinois, Defense-Rental Area.

3. Schedule A, Item 126a, is amended to describe the counties in the Defense-Rental Area as follows:

In Daviess County, the City of Owensboro and Magisterial District No. 1.

This decontrols the entire Owensboro, Kentucky, Defense-Rental Area, except the City of Owensboro and Magisterial District No. 1, both in the State of Kentucky.

4. Schedule A, Item 225, is amended to describe the counties in the Defense-Rental Area as follows:

In Ashtabula County, the Townships of Ashtabula, Conneaut, Geneva, Kingsville, and Saybrook.

This decontrols the entire Ashtabula, Ohio, Defense-Rental Area, except the Townships specified above.

All decontrols effected by this amendment are on the Housing Expediter's own initiative, in accordance with section 204 (c) of the Housing and Rent Act of 1947, as amended.

(Sec. 204 (d), 61 Stat. 197, as amended by 62 Stat. 37, 94, Pub. Law 31, 81st Cong.; 50 U. S. C. App. 1894 (d))

This amendment shall become effective October 28, 1949.

Issued this 27th day of October 1949.

J. WALTER WHITE,  
Acting Housing Expediter.

[F. R. Doc. 49-8783; Filed, Oct. 31, 1949; 8:56 a. m.]

[Controlled Rooms in Rooming Houses and Other Establishments Rent Reg., Amdt. 181]

#### PART 825—RENT REGULATIONS UNDER THE HOUSING AND RENT ACT OF 1947, AS AMENDED

##### OHIO

The Rent Regulation for Controlled Rooms in Rooming Houses and Other Establishments (§§ 825.81 to 825.92 is amended in the following respect:

A new Item 61 is hereby incorporated in Schedule B to read as follows:

61. Provisions relating to the Cleveland, Ohio, Defense-Rental Area.

Decontrol of specified class of housing accommodations on the Housing Expediter's own initiative. In accordance with section 204 (c) of the Housing and Rent Act of 1947, as amended, the application of §§ 825.81 to 825.92 is terminated, effective October 28, 1949, with respect to rooms in the Cleveland, Ohio, Defense-Rental Area which on that date were furnished rooms in rooming houses (other than rooms in hotels, motor courts, trailers and tourist homes) and did not contain any housekeeping facilities.

(Sec. 204 (d), 61 Stat. 197, as amended by 62 Stat. 37, 94, Pub. Law 31, 81st Cong.; 50 U. S. C. App. 1894 (d))

This amendment shall become effective October 28, 1949.

Issued this 27th day of October 1949.

J. WALTER WHITE,  
Acting Housing Expediter.

[F. R. Doc. 49-8784; Filed, Oct. 31, 1949; 8:56 a. m.]

## TITLE 37—PATENTS, TRADE-MARKS, AND COPYRIGHTS

### Chapter I—Patent Office, Department of Commerce

#### Subchapter A—Patents

#### PART 1—RULES OF PRACTICE IN PATENT CASES

#### Subchapter B—Trade-Marks

#### PART 100—RULES OF PRACTICE IN TRADE-MARK CASES

#### PART 110—FORMS FOR TRADE-MARK CASES

#### MISCELLANEOUS AMENDMENTS

The following amendments are made:  
1. Section 1.141 is amended to read as follows:

§ 1.141 *Different inventions in one application.* Two or more independent inventions cannot be claimed in one application; but (a) where several distinct inventions are dependent upon each other and mutually contribute to produce a single result they may be claimed in one application, and (b) more than one species of an invention, not to exceed five, may be specifically claimed in different claims in one application, provided the application also includes an allowable claim generic to all the claimed species and all the claims to each species in excess of one are written in dependent form (§ 1.75) or otherwise include all the limitations of the generic claim.

2. Section 1.146 *Election of species*, is amended by changing the word "three", appearing twice in the last sentence, to "five."

3. Section 100.21 *Fees and charges*, is amended by adding the following line to item (p) of the schedule of fees:

Each additional 100 words or fraction thereof..... .10

4. Section 100.21 is amended by adding the following item at the end of the note:

Rules of Practice in Trade-Mark Cases, with Forms and Statutes (also supplied by the Patent Office)..... .35

5. Section 100.37 is amended to read as follows:

§ 100.37 *Pamphlet of trade-mark rules and statutes; general information.* Pamphlet copies of the rules of practice in trade-mark cases, including forms and statutes, may be purchased from the Superintendent of Documents or the Patent Office. A pamphlet of general information concerning trade-marks is furnished without charge by the Patent Office.

6. Section 100.42 is amended by adding the following paragraph after the third paragraph:

§ 100.42 *Persons who may practice before the Patent Office in trade-mark cases.* \* \* \*

Persons not eligible under the above requirements who were permitted to practice in trade-mark cases before the Patent Office prior to July 5, 1947, and who regularly and continuously so practiced for a substantial period prior to such date, may be registered and recognized as agents to continue such practice under such restrictions as may be prescribed, upon application for such limited registration and recognition filed prior to February 1, 1950, and a showing of facts sufficient to justify such action.

7. Section 100.47 is amended to read as follows:

§ 100.47 *Power of attorney or authorization.* Before any attorney at law or other recognized person will be allowed to inspect papers in any application prior to publication under § 100.151, or to take action of any kind in any application or proceeding, a written power of attorney or authorization, from the person or persons entitled to prosecute the application, or from the principal attorney or agent, must be filed in that particular application or proceeding.

8. Section 100.67 is amended to read as follows:

§ 100.67 *Application confidential prior to publication.* An index of pending applications stating the name and address of the applicant, a description of the mark, the goods or services with which the mark is used, the class number, and the serial number and filing date of the application will be available for public inspection as soon as practicable after filing. Access to files of pending trade-mark applications will not be given prior to publication under § 100.151 without the written authority of the applicant, unless it shall, in the opinion of the Commissioner, be necessary to the proper conduct of business before the Patent Office. Decisions of the Commissioner in applications and proceedings relating thereto are published or available for inspection or publication.

9. Section 100.78 is amended by changing "related companies," second occurrence in the second paragraph, to "relationship," and inserting "of such companies" before the period, so that the second paragraph will read as follows:

§ 100.78 *Use by predecessor or by related companies.* \* \* \*

Where the mark sought to be registered is legitimately used by one or more related companies at the time of the filing of the application, the declaration (§ 100.74) must recite exceptions to the averment of the exclusive right to use the mark, stating the nature of such relationship and, if practicable, the names and addresses of such companies.

10. Section 100.81 is amended to read as follows:

§ 100.81 *Proof of distinctiveness under section 2 (f).* When registration is



sought under section 2 (f) of the act, the statement shall allege that registration is requested on the Principal Register in accordance with that section.

If the claim of distinctiveness is based on substantially exclusive and continuous use of the mark by the applicant for the period of five years next preceding the filing of the application, in commerce which may lawfully be regulated by Congress, the application shall include in the statement an allegation to that effect; but further evidence showing that the mark was so used, and that it has become distinctive, may be required.

If the allegation of distinctiveness is not based on substantially exclusive use over the five-year period specified in the preceding paragraph, but is based on other facts or circumstances, proof of distinctiveness must be submitted separately and should accompany the application. In such cases the statement shall set forth that the mark is alleged to have become distinctive of applicant's goods in commerce which may lawfully be regulated by Congress as evidenced by proof separately submitted.

When the claim of distinctiveness is added to the statement subsequently to the filing of the application, it must be verified by the applicant.

11. Paragraph (e) of § 100.92 is amended to read as follows:

§ 100.92 *Requirements for drawings.*

(e) *Extraneous matter.* An attorney's or agent's signature may appear upon the face of the drawing below the name of the applicant, but extraneous matter must not appear upon the face of the drawing within or without the marginal line.

12. Section 100.103 is amended to read as follows:

§ 100.103 *Specimens or facsimiles in the case of a service mark.* In the case of service marks, specimens or facsimiles as specified in §§ 100.101 and 100.102, of the mark as used in the sale or advertising of the services shall be furnished unless impossible from the nature of the mark or the manner in which it is used, in which even some other representation acceptable to the Commissioner must be submitted.

In the case of service marks not used in printed or written form, three single face, unbreakable, disc recordings will be accepted. The speed at which the recordings are to be played must be specified thereon. If facilities are not available to the applicant to furnish recordings of the required type, the Patent Office may arrange to have made, upon request, and at applicant's expense, the necessary disc recordings from any type of recording the applicant submits.

13. Section 100.132 is amended to read as follows:

§ 100.132 *Amendments to description or drawing.* Amendments to the description or drawing of the mark may be permitted only if warranted by the specimens (or facsimiles) as originally filed, or supported by additional specimens (or facsimiles) and a supplemental affidavit alleging that the amended mark

was in actual use prior to the filing date of the application, but may not be made if the nature of the mark is changed thereby.

14. Section 100.135 is amended to read as follows:

§ 100.135 *Amendment to change application to different register.* An application for registration on the Principal Register may be changed to an application for registration on the Supplemental Register and vice versa by amending the application to comply with the regulations in this part relating to the requirements for registration on the appropriate register, as the case may be. The original filing date may be considered for the purpose of proceedings in the Patent Office provided the application as originally filed was sufficient for registration on the register to which converted. Otherwise, the filing date of the amendment will be considered the filing date of the application so converted. Only one such conversion will be permitted after an action by the examiner.

15. Section 100.141 is amended by inserting "including lard," after "products" in the third paragraph so that said paragraph will read as follows:

§ 100.141 *Federal label approval required in certain cases.* \* \* \*

Labels for meat products, including lard (Class 46), which are subject to Federal inspection, must be approved by the Meat Inspection Division, Bureau of Animal Industry, Department of Agriculture.

16. Section 100.161 *Classification of goods and services*, is amended as follows:

a. Add the following heading to the table appearing in the section: "Classification of Goods".

b. Change the title of Class 4 in the table to read "Abrasives and polishing materials."

c. Change the title of Class 6 in the table to read "Chemicals and chemical compositions."

d. Cancel Class 55, Services (Temporary), the last item in the table.

e. Establish the following new classes:

18 Medicines and pharmaceutical preparations.

51 Cosmetics and toilet preparations.

52 Detergents and soaps.

f. Establish the following classification of services:

#### *Classification of Services*

100 Miscellaneous.

101 Advertising and business.

102 Insurance and financial.

103 Construction and repair.

104 Communication.

105 Transportation and storage.

106 Material treatment.

107 Education and entertainment.

17. Section 100.202 is amended to read as follows:

§ 100.202 *Extension of time.* A request to extend the time for filing a notice of opposition must be received in the Patent Office before the expiration of thirty days from the date of publication, and should be accompanied by a showing of good cause for the extension

requested and specify the period of extension desired. In the event circumstances do not permit submission of such showing of good cause with the request, it should be furnished as promptly as possible and, in any event, within ten days after submission of such request.

18. Section 100.203 is amended to read as follows:

§ 100.203 *Notice filed by attorney.* An unverified notice of opposition may be filed by a duly authorized attorney, but such opposition will be null and void unless verified by the opposer and the verification or verified notice filed in the Patent Office within thirty days after such filing, or within such further time after such filing as may be fixed by the Commissioner upon request made before the expiration of said thirty days.

19. Section 100.212 is amended by adding the following sentence at the end of the first paragraph: "Applications to cancel different registrations owned by the same party may be joined in one petition when appropriate, but the fee for each application to cancel a registration must accompany the petition."

so that the first paragraph will read as follows:

§ 100.212 *Petition for cancellation.* The petition to cancel must allege facts tending to show why the petitioner believes he is or will be damaged by the registration, state the specific grounds for cancellation, and indicate the respondent party to whom notice shall be sent. The petition must be verified by the petitioner. A duplicate copy of the petition, an abstract of title of the mark sought to be cancelled or an order for a title report for Office use, and two specimens (or facsimiles) of the mark actually used by the petitioner, if there be such, shall be filed with the petition. Applications to cancel different registrations owned by the same party may be joined in one petition when appropriate, but the fee for each application to cancel a registration must accompany the petition.

20. Section 100.238 is amended by changing the words "the Examiner of Interferences" appearing in the first paragraph to "such examiner," so that the first paragraph will read as follows:

§ 100.238 *Motions.* Motions shall be made in writing and shall contain a full statement of the grounds therefor. Oral hearings will not be held on motions except on order of the Examiner having jurisdiction. Briefs in support of or in opposition to motions shall be filed on dates set by such examiner and, if not so filed, consideration thereof may be refused.

21. Section 100.241 *Briefs at final hearings* is amended by adding the following sentence at the end thereof: "Only a single copy of each brief need be filed."

22. Section 100.243 is amended to read as follows:

§ 100.243 *New matter suggested by Examiner of Trade-Marks.* If, during the pendency of a contested or inter



partes case, facts appear which in the opinion of the Examiner of Trade-Marks render the mark of any applicant involved unregistrable, the attention of the Examiner of Interferences shall be called thereto. The Examiner of Interferences may suspend the proceeding and refer the case to the Examiner of Trade-Marks for his determination of the question of registrability, following the final determination of which the case shall be returned to the Examiner of Interferences for such further action as may be appropriate. The consideration of such facts by the Examiner of Trade-Marks shall be *ex parte*, but a copy of the action of the Examiner will be furnished to the other party or parties to the *inter partes* proceedings.

23. Section 100.244 is amended by changing the words "an affidavit" to "a statement," so that said section will read as follows:

§ 100.244 *Failure to take testimony.* Upon the filing of a statement by any party in the position of a defendant, that the time for taking testimony on behalf of any party in the position of plaintiff has expired and that no testimony has been taken by him and no other evidence offered, an order may be entered that such party show cause within a time set therein, not less than ten days, why judgment should not be rendered against him, and in the absence of a showing of good and sufficient cause judgment may be rendered as by default.

24. Section 100.247 is amended by deleting the phrase "judgment may be entered against said party;" and by changing the period to a comma and adding: "but judgment may be entered against said party when warranted by the issues raised.", so that said section will read as follows:

§ 100.247 *Abandonment of application, abandonment or disclaimer in whole of mark, concession of priority.* If an applicant involved in a contested proceeding files a written abandonment of the application, or abandonment of the mark, or if a registrant applies to disclaim the mark in whole under section 7 (d) of the act and such disclaimer is permitted, or if a party to an interference files a written concession of priority, the proceeding will not be dismissed or dissolved at the request of said party unless with the consent of the other parties, but judgment may be entered against said party when warranted by the issues raised.

25. Section 100.301 is amended by deleting the last paragraph thereof.

26. Section 100.341 is amended to read as follows:

§ 100.341 *New certificate on change of ownership.* In case of change of ownership of a registered mark, a new certificate of registration may be issued in the name of the assignee for the unexpired part of the original period, at the request of the assignee. The assignment must be recorded in the Patent Office, and the request for the new certificate must be

signed by the assignee and accompanied by the required fee and by an abstract of title or an order for title report for Office use. The original certificate of registration, if available, must also be submitted.

27. Section 110.1 is amended by adding the following note to the notes at the end of the form:

(5) For applications under section 2 (f):  
(a) If the claim of distinctiveness is based on five years' use, add the following paragraph:

The mark is claimed to have become distinctive of the applicant's goods in commerce which may lawfully be regulated by Congress through substantially exclusive and continuous use thereof as a mark by the applicant in commerce (specify the kind of commerce) for the five years next preceding the date of the filing of this application.

(b) If the claim of distinctiveness based on five years' use is supplemented by further evidence, add the following paragraph:

Proof of distinctiveness under section 2 (f) of the act is supplemented by further evidence submitted in this case.

(c) If the claim of distinctiveness is based on other facts or circumstances, add the following paragraph:

The mark is claimed to have become distinctive of the applicant's goods in commerce which may lawfully be regulated by Congress as supported by evidence separately submitted in this case.

(R. S. 481, 483; 35 U. S. C. 6, secs. 1, 30, 41, 60 Stat. 427; 15 U. S. C. 1051, 1112, 1123)

[SEAL] LAWRENCE C. KINGSLAND,  
Commissioner of Patents.

Approved:

CHARLES SAWYER,  
Secretary of Commerce.

[F. R. Doc. 49-8761; Filed, Oct. 31, 1949;  
8:48 a. m.]

## TITLE 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

### Chapter I—Veterans' Administration

#### PART 3—VETERANS CLAIMS

##### ADJUSTMENT OF AWARD OF VETERAN UPON TERMINATION OF INSTITUTIONALIZATION

In § 3.256, paragraph (a) is amended to read as follows:

§ 3.256 *Adjustment of award of veteran upon termination of institutionalization by the Veterans' Administration.*  
(a) (1) Where a veteran whose pension, compensation, or retirement pay has been reduced or discontinued as provided in § 3.255 (a) and (c), is discharged from treatment or care upon certification of the officer in charge of the hospital, institution, or home, that maximum benefits have been received, or release is approved, the award to or on behalf of the veteran will be adjusted in accordance with the last valid rating, if otherwise in order, effective as of the day the veteran is discharged or released from the hospital or institution, and the award will include such additional amount as will equal the total sum by which the pension, compensation, or retirement pay has been reduced.

(2) When the reduction or discontinuance has been effected pursuant to the provisions of § 3.255 (b), payment of the amount equal to the amount by which the pension, compensation, or retirement pay was reduced, as well as the amount which was not paid on account of the \$1,500 limitation on or after August 8, 1946, will be awarded six months following the finding of competency.

(3) In the event treatment or care is terminated by a competent veteran against medical advice, or as the result of disciplinary action, on or after August 8, 1946, payment of the amount by which the pension, compensation, or retirement pay was reduced will be awarded the veteran at the expiration of six months after the termination of treatment or care. Where a veteran in the last category is subsequently readmitted and continues such treatment or care until discharged upon certification by the officer in charge of the hospital, institution, or home in which treatment or care was furnished, that maximum benefits have been received or that release is approved, he shall be paid in a lump sum such additional amount as would equal the total sum by which his pension, compensation, or retirement pay has been reduced under § 3.255 (a) subsequent to such readmission.

(Sec. 5, 43 Stat. 608, as amended, sec. 2, 46 Stat. 1016, sec. 7, 48 Stat. 9, sec. 1, 60 Stat. 908; 38 U. S. C. 11a, 426, 707, ch. 12 note; Pub. Law 194, 81st Cong.)

This regulation effective August 8, 1946.

[SEAL] O. W. CLARK,  
Deputy Administrator.

[F. R. Doc. 49-8624; Filed, Oct. 31, 1949;  
8:45 a. m.]

#### PART 3—VETERANS CLAIMS

##### AWARDS OF ADDITIONAL COMPENSATION FOR DEPENDENT OR DEPENDENTS

A new § 3.1507 is added to read as follows:

§ 3.1507 *Instructions relating to awards of additional compensation for a dependent or dependents.* (a) For the purposes of Public Law 339, 81st Congress, enacted October 10, 1949, the following instructions are issued:

(1) Section 4, Public Law 339, 81st Congress, provides "That the compensation now payable under the act of July 2, 1948 (Pub. Law No. 377, 80th Cong.), for certain veterans with service-connected disabilities who have dependents, be amended to include persons whose service-connected disability is rated not less than 50 per centum."

(2) The procedure prescribed by § 3.1504 will be applicable in identifying and adjusting awards of veterans who have dependents and whose service-connected disabilities are rated not less than 50 percent except that the initial review procedure outlined in § 3.1504 will apply only to those awards rated 50 to 59 percent inclusive.

(3) If a veteran is rated 50 percent disabled under the 1945 rating schedule,



the amount of additional compensation for dependents shall be 50 percent or one-half of the applicable war-time or peace-time rate set forth in § 3.1504 (a) (4) (i). Where the percentage rating is other than multiples of 10 percent under Public No. 141, 73d Congress, the exact percentage will be used in the computations and the additional compensation for dependents shall be in an amount having the same ratio to the applicable war-time rate as the determined degree of disability bears to total disability.

(4) With reference to § 3.1504 (a) (4) (iii), the 75 percent limitation therein is not applicable subsequent to December 1, 1949.

(5) (i) The effective date of increased compensation for a dependent or dependents in an original claim will be controlled by § 3.1504 (a) (5) (i), substituting the language "or where the veteran has been previously married" for the present language "or where the veteran and his wife have been previously married" in lines 18 and 19 of § 3.1504 (a) (5) (i).

(ii) Generally, the effective date of an increase based on a dependent will be the date the evidence establishing the relationship and/or dependency is received in the Veterans' Administration. However, where evidence of relationship and dependency is furnished within five months after December 1, 1949, the effective date of Public Law 339, 81st Congress, in a case where there is of record on December 1, 1949, a claim or specific reference to dependents, payment of additional compensation for the dependent will be authorized from that date, but in no event earlier than that date. Action to authorize increased compensation on account of dependents will not be taken in any case until the proof of such relationship and dependency is received.

(6) Whenever § 3.1504 refers to "60 percent" there will be substituted "50 percent" and wherever § 3.1504 requires a stamping or citation of "Public Law 877" there will be substituted therefor "Public Law 877, as amended by section 4, Public Law 339, 81st Congress". Wherever the date "September 1, 1948" appears in § 3.1504, the date "December 1, 1949" will be substituted.

(7) Since the additional compensation payable under the provisions of Public Law 877, 80th Congress because of dependents was not changed by Public Law 339, 81st Congress, the amount of subsistence allowance previously awarded to veteran-trainees having disability ratings of 60 percent-100 percent inclusive, will remain the same after December 1, 1949, and, therefore, no adjustment of subsistence allowance in these cases will be required on account of Public Law 339. (Instruction 1, sec. 4, Pub. Law 339, 81st Cong.)

This regulation effective November 1, 1949.

[SEAL]

O. W. CLARK,  
Deputy Administrator.

[F. R. Doc. 49-8747; Filed, Oct. 31, 1949; 8:52 a. m.]

## TITLE 39—POSTAL SERVICE

### Chapter I—Post Office Department

#### PART 127—INTERNATIONAL POSTAL SERVICE: POSTAGE RATES, SERVICE AVAILABLE, AND INSTRUCTIONS FOR MAILING

##### MEXICO

1. In § 127.3 *Letters and letter packages* (13 F. R. 9074; 14 F. R. 893) rescind amended paragraph (g) as published in 14 F. R. 6133 (F. R. Doc. 49-3896; Filed, Oct. 7, 1949), inasmuch as this amendment was previously published in 14 F. R. 893.

2. In § 127.304 *Mexico* (13 F. R. 9185; 14 F. R. 5243) make the following changes:

a. Rescind amended paragraph (b) (9) as published in 14 F. R. 6160 (F. R. Doc. 49-8144; Filed, Oct. 11, 1949).

b. Delete all of subdivision (i) of paragraph (b) (9) following the list of prohibited articles.

c. Redesignate subdivision (ii) as subdivision (iv) and insert new subdivisions (ii) and (iii) to read as follows:

(ii) Certain of the above-listed items may be imported into specific areas of Mexico known as free zones, free perimeters, and free ports. These free areas are generally located in outlying districts of the country. Specific information regarding them may be obtained by interested patrons from the American Republics Branch, Office of International Trade, Department of Commerce, Washington 25, D. C., or any Commerce Department field office located in the principal cities of the United States.

(iii) No parcel-post or regular-mail packages for delivery in Mexico containing any of the items listed above as prohibited may be accepted for mailing unless addressed to one of the free areas, or unless the sender has received assurance that the addressee will be permitted to receive the contents. In such cases, the sender must endorse the wrapper "Importation into Mexico authorized" or similarly.

(R. S. 161, 396, 398, secs. 304, 309, 42 Stat. 24, 25, 48 Stat. 943; 5 U. S. C. 22, 369, 372)

[SEAL]

J. M. DONALDSON,  
Postmaster General.

[F. R. Doc. 49-8736; Filed, Oct. 31, 1949; 8:50 a. m.]

## TITLE 43—PUBLIC LANDS: INTERIOR

### Chapter I—Bureau of Land Management, Department of the Interior

#### Subchapter A—Alaska

[Circular 1741]

#### PART 80—TOWN SITES

##### METHOD OF SALE

The following text is added to Part 80: § 80.28 *Method of sale*. Sales of railroad town sites in Alaska, provided for by Executive Order No. 3489 of June 10, 1921 (43 CFR 297.3), will be made by the regional administrator in Alaska, as

superintendent of sales of railroad town sites in accordance with town-site regulations contained in 43 CFR 255.1-255.9 so far as those regulations are applicable. (Sec. 1, 38 Stat. 305, 48 U. S. C. 303; E. O. 3489, June 10, 1921)

NOTE: The reporting requirement of this regulation has been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

ROSCOE E. BELL,  
Associate Director.

Approved: October 25, 1949.

J. A. KRUG,  
Secretary of the Interior.

[F. R. Doc. 49-8733; Filed, Oct. 31, 1949; 8:50 a. m.]

#### Subchapter O—Payments and Repayments

[Circular 1743]

#### PART 216—PAYMENTS

##### Subchapter P—Practice

#### PART 220—GENERAL REGULATIONS RELATING TO PRACTICE

1. Section 216.29 *Applications not accompanied by proper remittances* is revoked.

2. Section 220.16 *Serial number assigned for purpose of identification only* is revoked.

(R. S. 453, 2478; 43 U. S. C. 2, 1201)

MARION CLAWSON,  
Director.

Approved: October 26, 1949.

MASTIN G. WHITE,  
Acting Assistant Secretary  
of the Interior.

[F. R. Doc. 49-8731; Filed, Oct. 31, 1949; 8:46 a. m.]

#### Subchapter T—Sale, Lease or Use, and Acquisitions

[Circular 1742]

#### PART 255—TOWN SITES

##### MISCELLANEOUS AMENDMENTS

1. The following text is substituted for §§ 255.1 to 255.25:

#### TOWN SITES RESERVED BY THE PRESIDENT OR BY PUBLIC LAND ORDER

§ 255.1 *Reservation of public lands for town site purposes*. Public lands have been reserved by the President for town site purposes, from time to time, under section 2380 of the Revised Statutes (43 U. S. C. 711). Reservations for such purposes may now be made by public land order, by the Secretary of the Interior, pursuant to Executive Order No. 9337 of April 24, 1943. The reservations may be made by the Secretary of the Interior on his own motion, or petitions may be addressed to him requesting the reservations. Such petitions should be filed with the regional administrator for the region in which the lands are situated.

§ 255.2 *Survey of reserved land into blocks and lots; appraisal thereof*.



Town sites reserved under section 2380, Revised Statutes, or under any other law directing their disposition under section 2381, Revised Statutes (43 U. S. C. 712) will be surveyed, when ordered by the regional administrator, with the approval of the Bureau of Land Management, into urban, or urban and suburban, lots and blocks, and thereafter the lots and blocks will be appraised by such disinterested person or persons as may be appointed by the regional administrator. They will examine each lot to be appraised and determine the fair and just cash value thereof. Improvements on such lots, if any, must not be considered in fixing such value. Lots or blocks reserved for public purposes will not be appraised.

§ 255.3 *Schedule of appraisement; disposal of copies thereof.* The schedule of appraisement must be prepared in triplicate on forms furnished by the regional administrator, and the certificates at the end thereof must be signed by each appraiser, and on being so completed they must be immediately transmitted to said officer; and when approved by him, one copy will be sent to the district land office, and one copy to the Bureau of Land Management. He will retain the triplicate copy.

§ 255.4 *Time, place, and terms of sale.* A notice of sale will be issued in each case by the regional administrator prescribing the time when, the place where, and the terms under which the lots will be offered.

§ 255.5 *Publication in Federal Register; sale to be given other publicity.* Every notice of sale shall be published in the FEDERAL REGISTER and every sale shall be given such other publicity, without cost to the Government, as may be deemed proper by the regional administrator.

§ 255.6 *Lot purchase limitation authorized; manner of making bids.* In appropriate cases the regional administrator may limit the number of lots each person may buy. Bids and payments may be made through agents, but not by mail, or at any time or place other than that fixed in the notice of sale.

§ 255.7 *Penalty for combinations in restraint of the sale.* All persons are warned against forming any combination or agreement which will prevent any lot from selling advantageously, or which will in any way hinder or prevent the sale, and all persons so offending will be prosecuted under 18 U. S. C. 1860.

§ 255.8 *Cash and memorandum certificates.* All lots purchased at the same time, for cash, in the same town site, and by the same person should be included in one certificate, in order to prevent unnecessary multiplicity of patents.

Where cash certificates cannot immediately issue, because payment for the lots has not been made in full, and where the notice of sale authorizes the issuance of nontransferable memorandum certificates on the payment of the first installment of the purchase price, more than one lot should not be included in the same certificate.

§ 255.9 *Reoffering at public sale; private entry.* An offering at public sale may be adjourned or closed, in the discretion of the regional administrator or other officer conducting the sale. If adjourned, the unsold lots will be held for future disposition at public sale. If closed, the unsold lots will become subject to private entry at the appraised price.

Lots sold at public sale and forfeited because of nonpayment of the purchase price, or for any other reason, will be held for further offering at public sale, unless reentry of the lots at private sale, at a designated price, is authorized by the notice under which the lots are sold.

Lots sold at private sale should be accompanied by an application therefor, signed by the applicant.

(R. S. 2380, 2381, 43 U. S. C. 711, 712)

#### TOWN SITES PLATTED BY OR FOR OCCUPANTS

§ 255.10 *Town site settlement.* Sections 2382 to 2386, of the Revised Statutes (43 U. S. C. 713-717), authorize the platting of town sites by or for the occupants and the disposal of such town sites, where town site settlement has been or may be made upon unreserved public lands subject to such settlement. Public lands withdrawn or reserved by Executive Order No. 6910 of November 26, 1934, or 6964 of February 5, 1935, are not subject to occupation for town site purposes unless first classified for such occupation, pursuant to Part 296 of this chapter.

§ 255.11 *Filing with county recorder of plat, field notes, and statement of improvements.*<sup>1</sup> The occupants, at their own expense, must cause a survey of the land into lots, blocks, streets, and alleys to be made, and the plat and field notes thereof to be filed with the recorder of the county in which the land is situated. The plat must show (a) that the land does not include an area in excess of 640 acres, unless the lots, buildings, and improvements cover a greater area, and then only to the extent so occupied and improved; (b) that the boundaries of the land are correctly shown and described thereon according to the lines of the public surveys, or if not so surveyed, then that the exterior lines of the town-site survey are tied to a designated, permanent, and thoroughly identified monument; (c) that the streets, squares, blocks, lots, and alleys, the dimensions of the same, with measurements, courses, and area of each municipal subdivision, and the name of the town, are correctly delineated thereon; and (d) the exterior lines of all existing railroad rights-of-way and statement grounds. The lots should not exceed 4,200 square feet, except in cases where the configuration necessitates a different area. The above-required facts should be embodied in the statement of the surveyor entered upon the margin of the plat.

A statement of the extent and general character of the improvements on the land must be filed with the plat and field

<sup>1</sup> Title 18, U. S. C., sec. 1001, makes it a crime for any person knowingly and wilfully to make to any department or agency of the United States any false, fictitious or fraudulent statements or representations as to any matter within its jurisdiction.

notes, and over the signature of the party acting for and on behalf of the occupants of the land.

§ 255.12 *Filing in district land office, in duplicate, of transcript of plat, field notes, and statement.* Within one month after filing such plat, field notes, and statement, a transcript thereof in duplicate, each duly verified by the certificate of the county recorder, and accompanied by the statement of two persons that such town has been established in good faith, and showing the number of inhabitants thereof, and when it was so established, shall be filed with the manager of the land district in which the town site is located, who will immediately transmit the same to the Bureau of Land Management for consideration, and upon the approval thereof one of said duplicate plats and statements will be returned to the manager for his files.

§ 255.13 *Notice to be issued by regional administrator; preemption proofs; public sale of unclaimed lots.* After the town site plat has been approved by the Bureau of Land Management, and a copy filed in the district land office, the regional administrator will issue a note to be published in the FEDERAL REGISTER stating the conditions under which preemption proofs may be submitted by the lot claimants and the time, place, and conditions for the offering of the unclaimed lots at public sale. This notice should be given such other publicity without cost to the Government as the regional administrator may deem appropriate.

§ 255.14 *Adjustment of town-site survey to township survey.* When the town site is upon land over which the township surveys have not been extended, the regional cadastral engineer will be notified and thereafter, when the township surveys have been extended over the land, the exterior lines of the town site may be adjusted thereto where it can be done without impairing vested rights.

§ 255.15 *Survey by Department of the Interior; increase in price of lots.* Refusal or failure to file such transcript, plat, field notes, and statement, with the testimony, as required, within 12 months from the establishment of a town on the public domain, will authorize the Bureau of Land Management to cause a survey and plat to be made thereof, the lots in which shall be disposed of at an increase of 50 per centum on the minimum price.

§ 255.16 *Minimum price of lots.* The minimum price for all lots of 4,200 square feet or less is \$10 per lot, except in cases where the survey into lots and blocks is made by the Government, in which case the minimum price is \$15 per lot for such lots. The minimum price for all lots in excess of 4,200 square feet will be computed by adding to said minimum price of \$10 or \$15, as the case may be, the sum of \$4 for each additional 1,000 square feet or fractional part thereof in excess of 4,200 square feet unless the regional administrator shall fix a different rate.

§ 255.17 *Preemption claims, publishing and posting of proof notices.* A preemption right of purchase at the minimum price, at any time before the



day fixed for the public sale, of not exceeding two lots, is accorded an actual resident, to secure which he must file in the district office his application therefor, and therein state the date of settlement, the value and character of his improvements thereon, that he is 21 years of age or over or the head of a family, and that he is a citizen of the United States or has declared his intention to become such. The notice of intention to make proof must be filed by the applicant and the notice for publication must be issued, and posted by the manager, and published at the expense of the applicant once a week for 5 consecutive weeks, in accordance with § 106.18 of this chapter.

Where a husband and wife are joint settlers, and the husband purchases two lots, as stated, the wife may also purchase an "additional lot" upon which she has placed substantial improvements.

§ 255.18 *Preemption proof.* Preemption proof may be made before the manager, or any officer duly authorized by law, and must show (a) due publication of the manager's notice, (b) the claimant's age, (c) his citizenship, in the manner required by Part 137 of this chapter, and (d) his actual residence upon one lot and substantial improvements on the second lot, if two lots be included in the application. The proof must embrace the testimony of the applicant and of at least two of his advertised witnesses. The purchase price for the lot or lots must be paid when the proof is made. Entry of public lands under other laws, or in other town sites, or ownership of more than 320 acres, will not disqualify an applicant from making such entry. No entry can be made of an improved lot on which the claimant does not reside unless his residence lot is included in the same or a previous entry.

§ 255.19 *Hearings.* Hearings will be ordered and conducted in accordance with the rules of practice, Part 221 of this chapter, where two or more adverse applications are filed for the same lot, or where a sufficient contest affidavit is filed against an application, on or before the day fixed for making proof, but no purchase money will be collected from the applicants until the final determination of the case, whereupon the successful applicant will be required to pay the purchase price within 30 days from notice thereof.

§ 255.20 *Conflicting mineral claims.* Mineral surveys, locations, applications, and entries covering lots in such town sites will not prevent the entry of such lots hereunder and the issuance of patent thereon, but such mineral claims, if held under prior and valid mineral rights, are amply protected by the law from prejudice by the allowance of such town-lot entries and patents, and paramount patents may be issued thereafter to such mineral claimants.

§ 255.21 *Lots wholly or partly covered by mineral patents.* Lots wholly covered by outstanding mineral patents are not subject to entry under the town site law, and applications therefor will be rejected. Lots partly covered by mineral patents may be entered at the price fixed

for the whole lot, but the certificate and receipt must contain at the end of the description an exception clause as follows: Excepting and excluding the portion of said lot (or lots) embraced in mineral patent (or patents) heretofore issued.

§ 255.22 *Forfeiture of preemption right.* All right to preempt and purchase occupied and improved lots for which no entry has been allowed prior to or on the date fixed for the public sale will be forfeited unless a contest be pending thereon, and such lots will be offered for sale together with the unoccupied lots. When notified of the date fixed for the public sale, the manager will refuse to receive or consider any such application for entry where due publication could not be had and proof made thereon prior to the date so fixed for the public sale.

§ 255.23 *Conduct of sale; minimum sale price; private entry.* The public sale will be conducted in the form and manner provided for the sale of town lots under §§ 255.4 to 255.9. No lot shall be sold for less than the minimum price fixed therefor, and such lots as may not be disposed of at public sale shall thereafter be liable to further public sale or to private entry at such minimum, or at such reasonable increase or diminution as the regional administrator may order after at least 3 months' notice thereof, to be published in the FEDERAL REGISTER.

(R. S. 453, 2478, 43 U. S. C. 2, 1201)

2. Section 255.41 is amended to read as follows:

#### TOWN SITES ENTERED BY TRUSTEES

§ 255.41 *Entry and payment.* When town site proof has been submitted, the manager will, if he approves the same, forward it to the regional administrator with his recommendation thereon, without collecting the purchase money and without issuing the final papers. If the proof so submitted is found satisfactory, the manager will be notified thereof, and if no objections exist in his office, he will notify the applicant thereof, and on payment of the minimum price fixed by the law for the purchase of the land he will issue the final papers.

(R. S. 453, 2478, 43 U. S. C. 2, 1201)

3. Section 255.46 is deleted and §§ 255.42 to 255.45, and 255.47 are amended to read as follows:

#### TOWN SITES IN RECLAMATION PROJECTS

§ 255.42 *Withdrawal and survey of land.* The Commissioner of Reclamation, with the concurrence of the Bureau of Land Management, may withdraw and reserve such lands for town site purposes, under the acts of April 16 and June 27, 1906 (34 Stat. 116, 519; 43 U. S. C. 434, 448, 561-563, 568, 594), as they may deem advisable. The Commissioner of Reclamation shall, when in his judgment the public interests require it, from time to time, cause not less than a legal subdivision, according to the official township surveys, of the lands so reserved to be surveyed into town lots, with appropriate reservations for public purposes. The plats and field notes of such surveys shall be prepared in triplicate for each town

site, and shall be submitted for the approval of the Director, Bureau of Land Management.

§ 255.43 *Procedure governing appraisal and sale.* The Commissioner of Reclamation shall from time to time, with the concurrence of the appropriate regional administrator of the Bureau of Land Management, authorize the appraisal and sale of lots in reclamation town sites. Notices of sale will be issued and other actions taken by those officers in accordance with the town site regulations contained in §§ 255.1 to 255.9.

§ 255.44 *Installment payments.* Under authority of section 2 of the act of June 11, 1910 (36 Stat. 466; 43 U. S. C. 565), the order for sale may authorize the payment of the purchase price of lots, sold in town sites created under the laws in said act mentioned, to be made in annual installments.

§ 255.45 *Reappraisal and sale of unsold lots.* The Commissioner of Reclamation, with the concurrence of the appropriate regional administrator, may direct that unsold lots shall be reappraised under the first section of the said act of June 11, 1910 (36 Stat. 465; 43 U. S. C. 564). The lots to be reappraised will not, from the date of the order therefor, be subject to disposal until offered at public sale at the reappraised value.

§ 255.47 *Public reserves; patents therefor.* The public reservations in each town shall be improved and maintained by the town authorities at the expense of the town; and upon the organization thereof as a municipal corporation, said reservations shall be conveyed to such corporation in its corporate name, subject to the condition that they shall be used forever for public purposes. To secure such conveyances, the municipality shall apply through its proper officer for a patent to such reservations, and furnish proof in manner, form, and substance as required in § 255.49.

(Sec. 2, 34 Stat. 116, 43 U. S. C. 562)

NOTE: The reporting requirement of this regulation has been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

ROSCOE E. BELL,  
Associate Director.

Approved: October 25, 1949.

J. A. KRUG,  
Secretary of the Interior.

[F. R. Doc. 49-8732; Filed, Oct. 31, 1949;  
8:49 a. m.]

## TITLE 46—SHIPPING

### Chapter I—Coast Guard, Department of the Treasury

#### Subchapter F—Marine Engineering [CGFR 49-42]

#### PART 55—PIPING SYSTEMS, PUMPS, REFRIG- ERATION MACHINERY, AND FUEL TANKS

#### CORRECTION OF PRIOR DOCUMENT AND CERTAIN EDITORIAL CHANGES

By virtue of the authority vested in me as Commandant, United States Coast



Guard, by R. S. 4405, as amended, and section 101 of Reorganization Plan No. 3 of 1946, 46 U. S. C. 1, 375, the following corrections shall be made in Coast Guard Document CGFR 49-18, Federal Register Document 49-6694, filed August 16, 1949, and published in the FEDERAL REGISTER dated August 17, 1949, 14 F. R. 5079 et seq., which were inadvertently omitted from that document:

**SUBPART 55.07—DETAIL REQUIREMENTS**

1. Section 55.07-10 (d) is corrected by inserting the phrase "or disk faces" immediately after the first word "disks" so that the paragraph will read as follows:

§ 55.07-10 *Valves and fittings.* \* \* \*  
(d) Disks or disk faces, seats, stems and other wearing parts of valves shall be made of material possessing corrosion and heat-resisting qualities suitable for the service conditions to which they may be subjected.

**SUBPART 55.10—PUMPING ARRANGEMENTS AND PIPING SYSTEMS**

2. Section 55.10-70 (j) is corrected to read as follows:

§ 55.10-70 *Overboard discharges and shell connections.* \* \* \*

(j) On passenger vessels where the bulkhead deck is higher than the freeboard deck, the requirements of this sec-

tion shall be determined with respect to the bulkhead deck. For vessels not assigned load lines, such as certain inland vessels and barges, the weather deck shall be taken as the freeboard deck.

(R. S. 4405, 4417a, sec. 14, 29 Stat. 690, 49 Stat. 1544, 54 Stat. 346, and sec. 5 (e), 55 Stat. 244, as amended; 46 U. S. C. 1, 366, 367, 375, 391a, 1333, 50 U. S. C. 1275)

Dated: October 26, 1949.

[SEAL] J. F. FARLEY,  
Admiral, U. S. Coast Guard,  
Commandant.

[F. R. Doc. 49-8780; Filed, Oct. 31, 1949; 8:56 a. m.]

## PROPOSED RULE MAKING

### DEPARTMENT OF AGRICULTURE

#### Production and Marketing Administration

##### [ 7 CFR, Part 51 ]

#### UNITED STATES STANDARDS FOR ORANGES

##### NOTICE OF PROPOSED RULE MAKING

##### Correction

In Federal Register Document No. 49-7856 appearing at page 5940 of the issue for Thursday, September 29, 1949, the following changes should be made in § 51.192.

1. In paragraph (d) (7), line 12 should read "a total tolerance of not more than 3 per-".

2. In paragraph (f) (5) the word "inch" should be inserted after the number "4/16" in the table.

3. In paragraph (g) (18) (iv) the second line should read "25 percent in the aggregate of the sur-".

### FEDERAL COMMUNICATIONS COMMISSION

##### [ 47 CFR, Part 3 ]

[Docket Nos. 8736, 8975, 8976, 9175]

#### TELEVISION BROADCAST SERVICE

##### ORDER AND REVISED HEARING SCHEDULE

In the matters of amendment of § 3.606 of the Commission's rules and regulations, Docket Nos. 8736 and 8975; amendment of the Commission's rules and regulations and Engineering Standards Concerning the Television Broadcast Service, Docket No. 9175; utilization of frequencies in the Band 470 to 890 Mcs. for Television Broadcasting, Docket No. 8976.

At a session of the Federal Communications Commission held in its offices in Washington, D. C., on the 28th day of October 1949;

The Commission having under consideration (1) the petition filed on October 20, 1949, by Radio Corporation of America requesting that the comparative demonstrations of certain proposed color television systems now scheduled for the

week of November 14, 1949, be postponed for two months; (2) the response to said petition filed October 24, 1949, by Radio Manufacturers Association requesting a postponement of the said comparative demonstrations; (3) the statement of Columbia Broadcasting System, Inc., filed October 25, 1949, opposing said petition; and (4) the statement of Radio Corporation of America filed October 26, 1949, replying to the above opposition of Columbia Broadcasting System, Inc.; and

It appearing, that, in the opinion of the Commission, the most expeditious method of proceeding with the hearing now in progress herein is to proceed with the comparative demonstrations as scheduled for the week of November 14, 1949; and

It further appearing, that the tentative schedule for the remainder of the hearing issued by the Commission on October 13, 1949 (FCC 49-1369) requires revision in the light of the proceedings to date in the hearing;

It is ordered, That the petition herein filed by the Radio Corporation of America on October 20, 1949, is denied.

It is further ordered, That the hearing herein proceed in accordance with the following revised hearing schedule:

1. The Commission will hold hearings on November 1 and 2 (morning and afternoon) and November 3 (morning only) and then on November 8, 9, and 10, 1949 (morning and afternoon), for the purpose of continuing to receive direct testimony of the parties.

2. During the week of November 14, 1949, the Commission will view the comparative demonstrations to be conducted by Columbia Broadcasting System, Inc., Radio Corporation of America and Allen B. DuMont Laboratories, Inc. Upon the conclusion of such comparative demonstrations, and upon receipt of all the direct testimony of the parties, the Commission will recess the hearing until February 6, 1950.

3. On February 6, 1950, the Commission will view the demonstration of the color system proposed by Color Television, Incorporated, at Washington, D. C., at an hour and place to be specified hereafter. The demonstration of this system heretofore scheduled for the week of

November 28, 1949, in San Francisco, California, is hereby cancelled.

4. Commencing on February 8, 1950, the Commission will view further comparative demonstrations of the color television systems proposed by Columbia Broadcasting System, Inc., Color Television, Inc., and Radio Corporation of America, at Washington, D. C., at an hour and place to be specified hereafter.

5. Commencing on February 13, 1950, the Commission will receive further direct testimony to be followed by cross-examination. The commencement of cross-examination on December 5, 1949, as heretofore scheduled, is hereby cancelled. Further, the requirement contained in the Commission's "Schedule For Remainder of Hearing Relating To Color Television" issued on October 13, 1949 (FCC 49-1369) that counsel for the parties fill out and file by November 18, 1949, requests to cross-examine previous witnesses, is cancelled.

6. During the week of November 6, 1949, public notice will be given by the Commission setting forth the type of further information which the proponents of color television systems will be required to present upon the resumption of the hearing.

Released: October 28, 1949.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] T. J. SLOWIE,  
Secretary.

[F. R. Doc. 49-8802; Filed, Oct. 31, 1949; 9:27 a. m.]

### [ 47 CFR, Part 13 ]

[Docket No. 9387]

#### COMMERCIAL RADIO OPERATORS

##### SUPPLEMENTAL NOTICE OF PROPOSED RULE MAKING

In the matter of amendments of §§ 13.21, 13.22, and 13.61 (c) of the rules governing Commercial Radio Operators; Docket No. 9387.

1. Notice is hereby given of further proposed rule making in the above-entitled matter.



2. On July 20, 1949, the Commission released a notice of proposed rule making (FCC 49-994) in this matter, proposing to make certain changes in the examination for, and the scope of operating authority under, the Restricted Radiotelegraph Operator Permit. Subsequent to the above date, on August 24, 1949, the Commission released a notice of proposed rule making (FCC 49-1166) in Docket No. 9424, proposing to establish a new class of Commercial Radio Operator License to be entitled Radiotelephone Third Class Operator Permit.

3. In view of the inter-related aspects of the above-mentioned proposals, the Commission now proposes to further amend § 13.61 (c) of its rules and regulations to accomplish the following additional substantive change:

(a) To further revise the scope of operating authority under the Restricted Radiotelegraph Operator Permit, to include therein all operating authority proposed to be granted under the proposed Radiotelephone Third Class Operator Permit, and under the same limitations.

4. The proposed amendment of § 13.61, revised to include the further changes described herein, is set forth below.

5. Any interested person who is of the opinion that the proposed amendment should not be adopted, or should not be adopted in the form set forth below, may file with the Commission on or before November 25, 1949, a written statement or brief setting forth his comments. At the same time, persons favoring the amendment as proposed may file statements in support thereof. The Commission will consider any such comments that are received before taking action in the matter, and if any comments are received which appear to warrant the holding of an oral argument, notice of

the time and place of such oral argument will be given.

6. In accordance with the provisions of § 1.764 of the Commission's rules and regulations, an original and fourteen copies of all statements, briefs, or comments shall be furnished the Commission.

Adopted: October 21, 1949.

Released: October 24, 1949.

FEDERAL COMMUNICATIONS  
COMMISSION,

[SEAL] T. J. SLOWIE,  
Secretary.

Paragraph (c) of § 13.61 is proposed to be amended to read as follows:

(c) *Restricted radiotelegraph operator permit. Any station except:*<sup>32a</sup>

(1) Stations transmitting television, or

(2) Any of the various classes of broadcast stations other than non-commercial educational FM broadcast stations using transmitters with power ratings of 10 watts or less, remote pickup broadcast stations and ST broadcast stations, or

(3) Coastal telephone stations at which the power in the antenna of the unmodulated carrier wave is authorized to exceed 250 watts, or

(4) Coastal harbor telephone stations, other than in the territory of Alaska, at which the power in the antenna of the unmodulated carrier wave is authorized to exceed 250 watts, or

(5) Ship stations or aircraft stations at which the installation is used for telephony and at which the power in the antenna of the unmodulated carrier wave is authorized to exceed 250 watts, or

(6) Ship telegraph, coastal telegraph or marine-relay stations open to public correspondence, or

(7) Radiotelegraph stations on board a vessel required by treaty or statute to be equipped with a radio installation, or

(8) Aircraft radio stations while employing radiotelegraphy;

*Provided*, That in the case of restricted radiotelegraph operator permits issued or renewed on or after -----

(1) Such operator is prohibited from making any adjustments that may result in improper transmitter operation, and (2) the equipment is so designed that the stability of the frequencies of the transmitter is maintained by the transmitter itself within the limits of tolerance specified by the station license, and none of the operations necessary to be performed during the course of normal rendition of service may cause off-frequency operation or result in any unauthorized radiation, and (3) any needed adjustments of the transmitter that may affect the proper operation of the station are regularly made by or in the presence of an operator holding a first- or second-class license, either radiotelephone or radiotelegraph as may be appropriate for the class of station involved,<sup>32b</sup> who shall be responsible for the proper operation of the equipment, and (4) in the case of ship radiotelephone or aircraft radio telephone stations when the power in the antenna of the unmodulated carrier wave is authorized to exceed 100 watts, any needed adjustments of the transmitter that may affect the proper operation of the station are made only by or in the presence of an operator holding a first- or second-class radiotelegraph license, who shall be responsible for the proper operation of the station.

[F. R. Doc. 49-8763; Filed, Oct. 31, 1949; 8:48 a. m.]

## NOTICES

### POST OFFICE DEPARTMENT

[Order 41762]

#### REORGANIZATION

#### ASSIGNMENT OF DUTIES AND DELEGATION OF AUTHORITY

The following order was issued by the Postmaster General under date of October 21, 1949:

Pursuant to authority of Reorganization Plan No. 3 of 1949, *It is hereby ordered*, Pending the issuance of further orders, that, effective October 21, 1949, the authority and functions vested by acts of Congress and regulations and instructions of the Postmaster General, in force and effect on October 21, 1949, in Assistant Postmaster General Vincent C. Burke are hereby transferred to the Deputy Postmaster General. There are also transferred to the Deputy Postmaster General for use in connection with the functions so transferred, the officers and employees, agencies, records, property,

and unexpended balances of appropriations, allocations and other funds (available or to be made available) of Assistant Postmaster General Vincent C. Burke. The authority and functions heretofore exercised and performed by agencies, subordinate officers, and employees of Assistant Postmaster General Vincent C. Burke, under acts of Congress and regulations and instructions of the Postmaster General, in force and effect on October 21, 1949, shall continue to be exercised and performed by such agencies, subordinate officers, and employees hereby transferred to the Deputy Postmaster General.

Subsection (a) of Order No. 41307, dated August 20, 1949, is hereby amended accordingly.

<sup>32a</sup> The scope of authority of restricted radiotelegraph operator permits valid as of ----- shall, until the expiration of their current terms, remain unaffected by the amendment of § 13.61 (c) set forth in the Commission's order dated -----, and effective -----.

(R. S. 161, 396, secs. 304, 309, 42 Stat. 24, 25; 5 U. S. C. 22, 369; Reorganization Plan No. 3 of 1949)

[SEAL] J. M. DONALDSON,  
Postmaster General.

[F. R. Doc. 49-8737; Filed, Oct. 31, 1949; 8:50 a. m.]

### DEPARTMENT OF LABOR

#### Wage and Hour and Public Contracts Divisions

#### EMPLOYMENT OF HANDICAPPED CLIENTS BY SHELTERED WORKSHOPS

#### NOTICE OF ISSUANCE OF SPECIAL CERTIFICATES

Notice is hereby given that special certificates authorizing the employment of handicapped clients at hourly wage rates

<sup>32b</sup> As determined by the scope of authority of the respective licenses as set forth in §§ 13.61 (a), (b), (d) and (e), and 13.62.



lower than the minimum wage rates applicable under section 6 of the Fair Labor Standards Act of 1938 and section 1 (b) of the Walsh-Healey Public Contracts Act have been issued to the sheltered workshops hereinafter mentioned, under section 14 of the Fair Labor Standards Act of 1938 (Sec. 14, 52 Stat. 1068; 29 U. S. C. 214) and Part 525 of the regulations issued thereunder (29 CFR, Cum. Supp., Part 525, amended 11 F. R. 9556), and under sections 4 and 6 of the Walsh-Healey Public Contracts Act (secs. 4, 6, 49 Stat. 2038; 41 U. S. C. 38, 40) and Article 1102 of the regulations issued pursuant thereto (41 CFR, Cum. Supp., 201.1102).

The names and addresses of the sheltered workshops to which certificates were issued, wage rates, and the effective and expiration dates of the certificates are as follows:

Goodwill Industries of Wilmington, Inc., 214-216 Walnut Street, Wilmington, Delaware; at a wage rate of not less than the piece rate paid non-handicapped employees engaged in the same occupation in regular commercial industry maintaining approved labor standards, or not less than 25 cents per hour, whichever is higher, and a rate of not less than 25 cents for each new client during his initial 4-week evaluation period in the workshop; certificate is effective November 1, 1949, and expires October 31, 1950.

Maryland League for Crippled Children, Inc., 827 St. Paul Street, Baltimore, Maryland; at a wage rate of not less than the piece rate paid non-handicapped employees engaged in the same occupation in regular commercial industry maintaining approved labor standards, or not less than 30 cents per hour, whichever is higher, and a rate of not less than 15 cents for each new client during his initial 4-week evaluation period in the workshop; certificate is effective November 1, 1949, and expires October 31, 1950.

Center for Sightless, Inc., 330 Third Street, Elyria, Ohio; at a wage rate of not less than the piece rate paid non-handicapped employees engaged in the same occupation in regular commercial industry maintaining approved labor standards, or not less than 10 cents per hour, whichever is higher, and a rate of not less than 5 cents for each new client during his initial 4-week evaluation period in the workshop; certificate is effective October 25, 1949, and expires March 31, 1950.

The employment of handicapped clients in the above-mentioned sheltered workshops under these certificates is limited to the terms and conditions therein contained and is subject to the provisions of Part 525 of the regulations. These certificates have been issued on the applicants' representations that they are sheltered workshops as defined in the regulations and that special services are provided their handicapped clients. A sheltered workshop is defined as, "A charitable organization or institution conducted not for profit, but for the purpose of carrying out a recognized program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury, and to provide such individuals with remunerative employment or other

occupational rehabilitating activity of an educational or therapeutic nature."

These certificates may be cancelled in the manner provided by the regulations. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within fifteen days after publication of this notice in the FEDERAL REGISTER.

Signed at Washington, D. C., this 21st day of October 1949.

RAYMOND G. GARCEAU,  
Director,  
Field Operations Branch.

[F. R. Doc. 49-8734; Filed, Oct. 31, 1949;  
8:50 a. m.]

## FEDERAL POWER COMMISSION

[Docket No. E-6243]

KANSAS GAS AND ELECTRIC CO.

NOTICE OF APPLICATION

OCTOBER 25, 1949.

Notice is hereby given that on October 24, 1949, an application was filed with the Federal Power Commission, pursuant to Section 204 of the Federal Power Act, by Kansas Gas and Electric Company, a corporation organized under the laws of the State of West Virginia and doing business in the States of Kansas and Missouri, with its principal business office at Wichita, Kansas, seeking an order authorizing the issuance of \$3,000,000 aggregate principal amount of First Mortgage Bonds, ----% Series due 1979, to be issued under Applicant's existing mortgage and Deed of Trust, dated as of April 1, 1940, as supplemented, and as it will be further supplemented by a Third Supplemental Indenture to be dated as of December 1, 1949. Applicant proposes to negotiate a private sale of said bonds to institutional buyers at a price not less than the principal amount thereof. Further information in respect to the interest rate and sale price will be supplied by amendment; all as more fully appears in the application on file with the Commission.

Any person desiring to be heard or to make any protest with reference to said application should, on or before the 14th day of November 1949, file with the Federal Power Commission, Washington 25, D. C., a petition or protest in accordance with the Commission's rules of practice and procedure.

[SEAL] LEON M. FUQUAY,  
Secretary.

[F. R. Doc. 49-8735; Filed, Oct. 31, 1949;  
8:50 a. m.]

[Docket No. G-1289]

SOUTH JERSEY GAS CO.

NOTICE OF APPLICATION

OCTOBER 26, 1949.

Take notice that South Jersey Gas Company (Applicant), a New Jersey corporation, address 2001 Atlantic Avenue, Atlantic City, New Jersey, filed on October 17, 1949, an application for a certificate of public convenience and neces-

sity pursuant to section 7 of the Natural Gas Act, authorizing the construction and operation of certain transmission pipeline facilities hereinafter described.

Applicant proposes to construct and operate approximately 77 miles of pipeline from a point on the Camden, New Jersey, lateral of Transcontinental Gas Pipe Line Corporation extending to Atlantic City, New Jersey, with laterals to the vicinity of Glassboro, Bridgeton, Vineland and Estelville, New Jersey.

The capacity of the proposed facilities is estimated at approximately 30,000 Mcf per day. The estimated maximum daily demand during the 1951-1952 heating season is 18,000 Mcf per day.

The territory to be served by the Applicant comprises substantially all of Atlantic County, including Atlantic City, Ventnor, Pleasantville, Egg Harbor City and Hammonton; major portions of Gloucester County, including Glassboro, Pitman and Swedesboro, and of Salem County, including Pennsgrove, Woodstown and Elmer; and small portions of Cumberland County, including Vineland, and of Camden County, including Berlin, Clementon, Runnimeade and Waterford.

The Applicant estimates the cost of its proposed facilities including cost of financing, franchises and other incidental expenses to be \$2,175,000. It proposes to finance the project by a temporary bank loan.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) within 15 days from the date of publication hereof in the FEDERAL REGISTER. The application is on file with the Commission for public inspection.

[SEAL] LEON M. FUQUAY,  
Secretary.

[F. R. Doc. 49-8757; Filed, Oct. 31, 1949;  
8:47 a. m.]

[Project No. 2032]

LOWER VALLEY POWER AND LIGHT, INC.

NOTICE OF APPLICATION FOR LICENSE  
(MAJOR)

OCTOBER 26, 1949.

Public notice is hereby given, pursuant to the provisions of the Federal Power Act (16 U. S. C. 791a-825r), that Lower Valley Power and Light, Inc., of Freedom, Wyoming, has made application for license for proposed major Project No. 2032 to be located on Strawberry Creek in Lincoln County, Wyoming. The proposed project would affect lands of the United States within Bridger National Forest and would consist of a low concrete dam between 4 and 5 miles upstream from Bedford, Wyoming, forming a reservoir with area of about 5 acres and usable storage of about 22 acre-feet; a steel pipe line about 2 miles long; a powerhouse containing initially two 725-horsepower turbines connected to two 500-kilowatt generators with provision for ultimate installation of a third hydroelectric unit of equal size; a substation;



a 12.5 kilovolt transmission line; and appurtenant facilities.

Any protest against approval of this application or request for hearing thereon, with the reasons for such protest or request, and the name and address of the party or parties so protesting or requesting, should be submitted on or before December 12, 1949, to the Federal Power Commission, Washington 25, D. C.

[SEAL] LEON M. FUQUAY,  
Secretary.

[F. R. Doc. 49-8756; Filed, Oct. 31, 1949;  
8:47 a. m.]

## INTERSTATE COMMERCE COMMISSION

[4th Sec. Application 24625]

ACETONE, ALCOHOL AND RELATED ARTICLES  
FROM NEW ORLEANS AND BATON ROUGE,  
LA., TO MEMPHIS, TENN.

APPLICATION FOR RELIEF

OCTOBER 26, 1949.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: D. Q. Marsh, Agent, pursuant to fourth-section order No. 16101.

Commodities involved: Acetone, alcohols, anti-freeze preparations and related articles, in carloads.

From: Baton Rouge, North Baton Rouge and New Orleans, La.

To: Memphis, Tenn.

Grounds for relief: Circuitous routes.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL,  
Secretary.

[F. R. Doc. 49-8758; Filed, Oct. 31, 1949;  
8:47 a. m.]

[4th Sec. Application 24628]

COAL AND COKE FROM ALABAMA TO FLORIDA  
APPLICATION FOR RELIEF

OCTOBER 26, 1949.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: R. E. Boyle, Jr., Agent, for and on behalf of the Central of Georgia Railway Company and other carriers named in the application.

Commodities involved: Coal and coke, carloads.

From: Brookston, Ragland and Watts-ville, Ala.

To: Points in Florida.

Grounds for relief: Circuitous routes.

Schedules filed containing proposed rates; C. A. Spaninger's tariff I. C. C. No. 1090, Supplement 38.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL,  
Secretary.

[F. R. Doc. 49-8760; Filed, Oct. 31, 1949;  
8:48 a. m.]

[4th Sec. Application No. 24627]

MOTOR-RAIL-MOTOR RATES—CHICAGO  
GREAT WESTERN RAILWAY CO.

APPLICATION FOR RELIEF

OCTOBER 26, 1949.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: Middlewest Motor Freight Bureau, Agent, for and on behalf of the Chicago Great Western Railway Company and Merchants Motor Freight, Inc.

Commodities involved: All commodities.

Between: Chicago, Ill., on the one hand, and Council Bluffs and Des Moines, Iowa and Kansas City, Mo., on the other.

Grounds for relief: Competition with motor carriers.

Schedules filed containing proposed rates: Middlewest Motor Freight Bureau, Agent, tariff I. C. C. No. 22, Supplement 13.

Any interested person desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice. As provided by the general rules of practice of the Commission, Rule 73, persons other than applicants should fairly disclose their interest, and the position they intend to take at the hearing with respect to the application. Otherwise the Commission,

in its discretion, may proceed to investigate and determine the matters involved in such application without further or formal hearing. If because of an emergency a grant of temporary relief is found to be necessary before the expiration of the 15-day period, a hearing, upon a request filed within that period, may be held subsequently.

By the Commission, Division 2.

[SEAL] W. P. BARTEL,  
Secretary.

[F. R. Doc. 49-8759; Filed, Oct. 31, 1949;  
8:48 a. m.]

## SECURITIES AND EXCHANGE COMMISSION

[File Nos. 31-523, 31-524, 54-106, 54-107,  
59-52]

BUFFALO, NIAGARA AND EASTERN POWER  
CORP. ET AL.

NOTICE OF FILING OF APPLICATION FOR  
EXTENSION OF TIME

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 26th day of October 1949.

In the matters of Buffalo, Niagara and Eastern Power Corporation, File Nos. 54-106; 31-524; Niagara Hudson Power Corporation, File Nos. 54-107; 31-523; Niagara Hudson Power Corporation and its Subsidiary Companies, Respondents, File No. 59-52.

Notice is hereby given that Niagara Hudson Power Corporation ("Niagara Hudson") has filed an application and an amendment thereto requesting an extension of the time within which Niagara Hudson must dispose of all its interest, direct or indirect, in Buffalo Niagara Electric Corporation and the subsidiaries thereof, as provided by the amended plan of Niagara Hudson approved by order of the Commission dated October 4, 1945 (the time for compliance with such order having been subsequently extended to November 1, 1949 by Commission orders, the last of which was dated May 13, 1949).

Notice is further given that any person may, not later than November 8, 1949, at 5:30 p. m., e. s. t., request the Commission in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request and the issues, if any, of fact or law raised by said application as amended proposed to be controverted or may request that he be notified if the Commission should order a hearing thereon. At any time after November 8, 1949, the Commission may take such action as may be deemed appropriate with respect to Niagara Hudson's application as amended.

All interested persons are referred to said application as amended which is on file in the offices of the Commission for a statement of the reasons for such request, which are summarized as follows:

The Commission, by order dated October 4, 1945, approved a plan of reorganization and consolidation of Buffalo, Niagara and Eastern Power Corporation and certain of its subsidiaries, which plan provided, among other things, for the disposition of Niagara Hudson, within one year from November 1, 1945, of



all of its interest, direct or indirect, in Buffalo Niagara Electric Corporation unless such time is extended or the disposition requirements of the order modified or altered.

By order dated August 25, 1949 the Commission approved plans filed by Niagara Hudson pursuant to section 11 (e) of the act, providing for the consolidation of its three principal subsidiaries, namely: Buffalo Niagara Electric Corporation, Central New York Power Corporation and New York Power and Light Corporation into a single new operating company and for the dissolution of Niagara Hudson through the distribution of stocks of the new operating company to holders of the preferred and common stocks of Niagara Hudson. On August 26, 1949, the Commission filed with the District Court of the United States for the Northern District of New York an application to enforce and carry out the terms and provisions of the plan. A hearing was duly held on September 30, 1949 by such court where the matter is still pending.

By reason of the foregoing Niagara Hudson has requested that an additional extension of time to effect compliance with the order dated October 4, 1945 be granted.

By the Commission.

[SEAL] ORVAL L. DuBOIS,  
Secretary.

[F. R. Doc. 49-8738; Filed, Oct. 31, 1949;  
8:50 a. m.]

[File No. 54-51]

NATIONAL POWER & LIGHT CO. ET AL.

NOTICE OF FILING AND ORDER FOR HEARING  
ON APPLICATIONS TO PAY FEES AND  
EXPENSES

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C. on the 26th day of October A. D. 1949.

In the matter of National Power & Light Company, Lehigh Valley Transit Company, Lehigh Valley Transportation Company, Easton Transit Company, Easton & South Bethlehem Transportation Company; File No. 54-51.

The Commission on August 17, 1948 issued its Findings approving, subject to amendment in certain minor respects, an amended plan for the reorganization of Lehigh Valley Transit Company ("Lehigh"), filed pursuant to section 11 (e) of the Public Utility Holding Company Act of 1935 by Lehigh and its parent, National Power & Light Company ("National"), a registered holding company subsidiary of Electric Bond and Share Company, also a registered holding company. Said plan provided, inter alia, for the retirement of the outstanding bonds of Lehigh, the cancellation and surrender of its outstanding preferred and common stocks and the issuance of a new common stock.

On August 25, 1948 the Commission issued its order approving said plan as further amended, said order reserving however, among other things, jurisdiction over the payment of all fees and expenses incurred or to be incurred in

connection with the plan and the transactions recited therein. On September 28, 1948 the plan, as amended, was approved and ordered enforced by the District Court of the United States for the Eastern District of Pennsylvania and has

since been consummated in accordance with its terms.

Notice is hereby given that applications for the payment of fees and expenses have been filed by the following persons and in the following amounts:

Fee Claimant	Capacity	Fees	Expenses	Total
Simpson Thacher & Bartlett.....	Counsel for National.....	\$13,500	\$157.64	\$13,657.64
Reid & Priest.....	do.....	7,500	1,990.11	9,490.11
Reid & Priest.....	Counsel for Lehigh.....	22,500	3,257.19	25,757.19
Lehigh Valley Trust Co.....	Trustee under indentures and exchange agent.....	11,321		11,321.00
Snyder, Wert & Wilcox.....	Local counsel for Lehigh.....	1,000		1,000.00
Nutter, McClellan & Fish.....	Counsel for bondholders group.....	5,000	1,072.13	6,072.13

It appearing to the Commission that it is appropriate in the public interest that a hearing be held with respect to the matters set forth in said applications:

It is ordered, That a hearing on said applications pursuant to sections 11 (e) and 18 of the act and the rules and regulations thereunder be held before the hearing officer heretofore designated to preside in these proceedings on November 14, 1949, at 10:00 a. m., e. s. t., at the offices of this Commission, 425 Second Street NW., Washington 25, D. C. On such date, the Hearing Room Clerk will advise as to the room in which such hearing will be held. Any person who is now already a party, or if not already a party has been given leave to participate herein, who desires to be heard, or otherwise wishes to participate shall file with the Secretary of this Commission on or before November 10, 1949, a request relative thereto as provided by Rule XVII of the Commission's rules of practice.

The Division of Public Utilities of the Commission having advised the Commission that it has made a preliminary examination of said applications and that on the basis thereof, the following matters and questions are presented for consideration without prejudice, however, to the presentation of additional matters and questions upon further examination:

(1) Whether the requested amounts for fees and expenses were incurred in rendering services which were necessary in connection with the reorganization plan and whether the requested amounts are reasonable.

(2) Whether the allocation of fees between Lehigh and National, as proposed in the applications, is appropriate, and if not, to what extent the fees should be borne by each of said companies.

(3) Whether there are any other factors apart from the nature and value of the services rendered and the capacity in which rendered, which would make any of the requests for compensation and reimbursement improper.

It is further ordered, That particular attention be directed in said hearing to the foregoing matters and questions.

It is further ordered, That the Secretary of the Commission shall serve a copy of this order, by registered mail, on the parties herein and those who have been given leave to participate in these proceedings and on the Pennsylvania Public Utility Commission, and that notice of said hearing shall be given to all other persons by general release of this Commission, which shall be distributed to the press and mailed to the mailing list for releases issued under the Public

Utility Holding Company Act of 1935, and by publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] ORVAL L. DuBOIS,  
Secretary.

[F. R. Doc. 49-8740; Filed, Oct. 31, 1949;  
8:51 a. m.]

[File Nos. 54-127, 59-3, 59-12, 70-1806]

ELECTRIC BOND AND SHARE CO. ET AL.

ORDER POSTPONING HEARINGS AND AMENDING  
PREVIOUS ORDER

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 26th day of October A. D. 1949.

In the matter of Electric Bond and Share Company, File No. 54-127; Electric Bond and Share Company, et al., File No. 59-12; Electric Bond and Share Company, et al., File No. 59-3; Electric Bond and Share Company, File No. 70-1806.

The Commission having on October 14, 1949, issued its order directing that hearings be convened on November 16, 1949, with respect to an application filed by Electric Bond and Share Company ("Bond and Share"), and with respect to the reinstitution of proceedings against Bond and Share under sections 11 (b) (1) and 11 (b) (2) of the Public Utility Holding Company Act of 1935; and

Bond and Share, through its counsel, having requested a postponement of said hearings to December 7, 1949, by reason of the stated inability of counsel to proceed with said hearings on the date heretofore scheduled; and

The Commission deeming it appropriate that said request for adjournment be granted, and also deeming it appropriate that the notice and order for hearing heretofore described be amended accordingly:

It is hereby ordered, That the notice of filing and order for hearing in the above matter dated October 14, 1949, be, and the same hereby is amended as follows:

It is hereby ordered, That hearings in the above entitled matter be convened on December 7, 1949 at 10:00 a. m., e. s. t., at the office of the Commission, 425 Second Street NW., Washington 25, D. C. On such date the hearing room clerk in Room 101 will advise as to the room in which such hearing will be held. Any persons desiring to be heard or otherwise wishing to participate in this



proceeding shall file with the Secretary of the Commission on or before December 5, 1949, a written request relative thereto as provided by Rule XVII of the Commission's rules of practice.

It is further ordered, That Bond and Share shall give notice of this hearing to all its security holders (insofar as the identity of such security holders is known and available to it) by mailing to each of said persons a copy of the notice and order for hearing dated October 14, 1949, and of this order at least twenty-five days prior to the date herein set for hearing.

By the Commission.

[SEAL] ORVAL L. DuBOIS,  
Secretary.

[F. R. Doc. 49-8741; Filed, Oct. 31, 1949;  
8:51 a. m.]

[File Nos. 54-159, 54-160, 54-162, 54-164]

INTERNATIONAL HYDRO-ELECTRIC SYSTEM  
ORDER RELEASING JURISDICTION AS TO  
CERTAIN FEES AND EXPENSES

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 26th day of October A. D. 1949.

The Commission having, on May 27, 1949, approved Part I of the Trustee's Second Plan for the liquidation and dissolution of International Hydro-Electric System, pursuant to the provisions of section 11 (d) of the Public Utility Holding Company Act of 1935, but having reserved jurisdiction with respect to the approval by the Commission of the maximum amounts that may be paid as legal fees and expenses and as fees and expenses of the financial institutions selected as agents in carrying out Part I of the Plan; and

The Trustee having, on October 18, 1949, filed an application and report showing that the Chase National Bank of the City of New York, the First National Bank of Boston, and the Royal Bank of Canada were selected as paying agents in carrying out said Part I; that said agents have agreed to do the work on the following basis: Fee for services in paying \$100 on principal amount plus interest from April 1 to July 1, 1949, per debenture \$0.20; fee for drawing checks in payment of above, per check \$0.15; postage, insurance, and incidental expenses at cost; that up to August 31, 1949, the authorized partial payments had been made on 24,497 Debentures (92.2%); that the total fees and expenses incurred in connection therewith amount to \$7,148.82; that further fees and expenses on the same basis will be incurred as to the remaining 2,071 Debentures (7.8%) when presented for payment; and that there will be a further charge of approximately \$375 for listing and reporting to the Collector of Internal Revenue the amounts of interest paid to the several Debenture holders; and

The Commission having considered the record and it appearing to the Commission that the basis of said charges and the amount thereof are not unreasonable and that the reservation of juris-

diction with respect thereto should now be released;

It is ordered, That the jurisdiction heretofore reserved over the fees and expenses of the financial institutions selected as agents in carrying out Part I of the Trustee's Second Plan herein be, and the same hereby is, released.

By the Commission.

[SEAL] ORVAL L. DuBOIS,  
Secretary.

[F. R. Doc. 49-8744; Filed, Oct. 31, 1949;  
8:52 a. m.]

[File Nos. 70-1706, 70-2229]

CHESAPEAKE UTILITIES CORP. ET AL.

NOTICE OF FILING, NOTICE OF AND ORDER  
FOR CONSOLIDATION

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 26th day of October 1949.

In the matters of Chesapeake Utilities Corporation, et al., File No. 70-1706; Charles C. Harrison, 3d, David B. Sharp, Jr., Robert E. Daffron, Jr., George B. Daniel; File No. 70-2229.

Notice is hereby given that a joint application has been filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("act") by Charles C. Harrison, 3d, David B. Sharp, Jr., Robert E. Daffron, Jr., and George B. Daniel. Applicants have designated sections 9 (a) (2) and 10 of the act as applicable to the proposed transactions.

Notice is further given that any interested person may, not later than November 15, 1949, at 5:30 p. m., e. s. t., request the Commission in writing that a hearing be held on the application, stating the reasons for such request, the nature of his interest, and the issues of fact or law raised by the application, as filed or as subsequently amended, which he desires to controvert, or may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 425 Second Street NW., Washington 25, D. C. At any time after November 15, 1949, the application, as filed or as amended, may be granted as provided in Rule U-23 of the rules and regulations promulgated under the act, or the Commission may exempt such transactions as provided in Rules U-20 (a) and U-100 (a) thereof.

All interested persons are referred to the application, which is on file on the offices of this Commission, for a statement of the transactions therein proposed, which are summarized as follows:

Chesapeake Utilities Company ("Chesapeake"), a Delaware company, is a holding company claiming exemption from the provisions of the act pursuant to Rule U-9 promulgated thereunder. All of the common stock of Chesapeake, consisting of 26,000 shares of the par value of \$5 per share, is owned by applicants to Harrison, Sharp, and Daffron and by Mary Callery, who is not a party to this proceeding, and all of the 5% Cumulative Preferred Stock

of Chesapeake, 1,000 shares of the par value of \$100 per share, is owned by Mary Callery. Pursuant to an option entered into at the time this Commission approved the acquisition by Mary Callery of shares of the common and preferred stocks of Chesapeake, Harrison and Daffron propose to acquire 1,000 of the 12,000 shares of common stock of Chesapeake owned by Mary Callery for a cash consideration of \$5,000, being the aggregate par value thereof and the cost thereof to her. Harrison, Sharp, and Daffron also propose to acquire from Mary Callery an indirect interest (through the firm of Harrison & Company, of which they are members) in 50 shares of the 5% Cumulative Preferred Stock of Chesapeake for a cash consideration of \$5,000, being the aggregate par value thereof and the cost thereof to Mary Callery. Daniel proposes to acquire and Harrison, Sharp, and Daffron propose to transfer to Daniel 1,700 shares of the common stock of Chesapeake, of the aggregate par value of \$8,500, in consideration of certain services rendered by said Daniel as an officer of Chesapeake. Harrison, Sharp, and Daniel also propose to transfer to one Edward C. Burton 300 shares of the common stock of Chesapeake, of the aggregate par value of \$1,500, in consideration of certain services rendered by said Burton as an officer of the public-utility subsidiaries of Chesapeake.

Applicants agree that any order entered in this proceeding shall become effective only upon the filing of a stipulation, duly executed by Chesapeake and each of its subsidiaries and by each of the holders, present and proposed, of the common stock of Chesapeake other than Mary Callery, providing that certain transactions will not be effected, except on notice to the Commission, during such time as the consolidated common stock and surplus of Chesapeake and its subsidiaries is or would become less than 25% of their consolidated capitalization and surplus.

Applicants state that no regulatory body other than this Commission has any jurisdiction over the foregoing transactions and have requested that the Commission's order with respect thereto become effective forthwith upon issuance.

It appearing that the record in Chesapeake Utilities Corporation, File No. 70-1706, is, or may be, pertinent and necessary to the consideration of the foregoing application;

It is hereby ordered, That this proceeding be, and it is hereby, consolidated with Chesapeake Utilities Corporation, File No. 70-1706.

By the Commission.

[SEAL] ORVAL L. DuBOIS,  
Secretary.

[F. R. Doc. 49-8745; Filed, Oct. 31, 1949;  
8:52 a. m.]

[File No. 70-2088]

ARKANSAS POWER & LIGHT CO.

ORDER RELEASING JURISDICTION OVER FEES

At a regular session of the Securities and Exchange Commission held at its



office in the city of Washington, D. C., on the 26th day of October A. D. 1949.

The Commission having by orders dated April 15, 1949, and April 27, 1949, granted the application, as amended, of Arkansas Power & Light Company ("Arkansas"), a then utility subsidiary of Electric Power & Light Company, a then registered holding company subsidiary of Electric Bond and Share Company, also a registered holding company, with respect to the issuance and sale at competitive bidding of \$8,300,000 principal amount of 25 year, 3½% Sinking Fund Debentures, due 1974; and

The Commission having reserved jurisdiction with respect to the payment of fees and expenses of counsel in connection with the proposed transactions, including the fees and expenses of counsel for the underwriter, and also over the fees and expenses of Ebasco Services, Incorporated; and

The record having been completed with respect to these matters, the said fees being as follows:

Reid & Priest (New York counsel for the company).....	\$11,000
House, Moses & Holmes (local counsel for the company).....	6,000
White & Case (counsel for the underwriter—fee to be paid by underwriter).....	6,500
Ebasco Services, Inc.....	6,500

It appearing to the Commission that such fees are not unreasonable and that no adverse action need be taken thereto;

*It is ordered*, That jurisdiction heretofore reserved with respect to the payment of fees and expenses of counsel and the fee of Ebasco Services, Incorporated, be, and the same hereby is, released.

By the Commission.

[SEAL] ORVAL L. DuBOIS,  
Secretary.

[F. R. Doc. 49-8739; Filed, Oct. 31, 1949; 8:51 a. m.]

[File Nos. 70-2232, 70-2233]

CENTRAL AND SOUTH WEST CORP. ET AL.  
ORDER GRANTING APPLICATION AND PERMITTING DECLARATIONS TO BECOME EFFECTIVE

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 25th day of October A. D. 1949.

In the matter of Central and South West Corporation, File No. 70-2232; Central and South West Corporation, Central Power and Light Company, Southwestern Gas and Electric Company, File No. 70-2233.

Central and South West Corporation ("Central"), a registered holding company, having filed a declaration, and amendments thereto, pursuant to sections 6 (a) and 7 of the Public Utility Holding Company Act of 1935 and Rule U-50 promulgated thereunder, and Central and its subsidiaries, Central Power and Light Company ("Power and Light"), and Southwestern Gas and Electric Company ("Southwestern"), having filed a separate joint application-declaration, and amendments thereto, pursuant to sections 6 (a), 7,

9, (a), 10 and 12 (f) of the act and Rule U-43 promulgated thereunder, regarding the following proposed transactions:

Central proposes to issue and sell 725,567 shares of additional common stock, \$5 par value. The stock is to be offered to the stockholders of record as of the close of business on or about November 2, 1949, for a period of approximately 16 days, on the basis of one share of additional common stock for each ten shares held. Prior to the making of the subscription offer, Central will invite competitive bids, pursuant to Rule U-50, for the purchase of such shares as are not subscribed for and purchased by the common stockholders, and the price per share specified in the bid of the successful bidders for the unsubscribed shares will be the price at which the shares will be offered to stockholders pursuant to the subscription offer. Rights to subscribe will be evidenced by transferable subscription warrants, and no subscriptions for a fractional share will be accepted and no fractional shares will be issued.

Central requests that the ten-day period for inviting bids as provided by Rule U-50 be shortened to a period of not less than six days.

Central states that of the net proceeds it will invest not less than \$4,000,000 nor more than \$4,500,000 in the common stock of Power and Light and not less than \$3,000,000 nor more than \$3,500,000 in the common stock of Southwestern, and that the remaining proceeds will be retained by Central for future investment, subject to any necessary approvals of the Commission, in one or more of its four principal subsidiaries. The net proceeds to be received by Power and Light and Southwestern from the sales of their common stocks will be used by them to finance, in part, their construction programs.

In connection with the proposed transactions, Power and Light proposes to amend its Articles of Incorporation to increase its total authorized common stock by such number of shares as shall be acquired by Central, and Southwestern proposes to amend its Certificate of Incorporation to increase its total authorized common stock to 2,000,000 shares.

Central estimates that its expenses, other than underwriters' compensation or commission, in connection with the issue and sale of common stock will aggregate \$100,000, including \$15,000 payable to Middle West Service Company and local counsel fees of \$1,800. The fee of independent counsel to be paid by the successful bidder is estimated at \$7,500. Power and Light and Southwestern estimate that their expenses in connection with the issue and sale of common stock will aggregate \$9,000.

The record indicates that Southwestern has filed an application with the Arkansas Public Service Commission for authority to amend its Certificate of Incorporation and to issue and sell its proposed shares of common stock. Applicants-declarants represent that no other regulatory authority has or claims to have jurisdiction over any of the proposed transactions.

The said declaration and said application-declaration having been filed on

September 30, 1949, and the last amendment thereto having been filed on October 24, 1949, and notice of said filings having been given in the form and manner prescribed by Rule U-23 promulgated pursuant to said act and the Commission having received a petition of Hugh A. Drane for hearing with respect to said declaration and said application-declaration within the period specified in said notice and having determined that the issues as raised by said petitioner are not sufficient to warrant a hearing in this matter and having denied said petition, and not having ordered a hearing thereon; and

The Commission finding that the requirements of the applicable provisions of the act and rules promulgated thereunder are satisfied and that no adverse findings are necessary with respect to said declaration, as amended, of Central, and also with respect to said application-declaration, as amended, of Central, Power and Light and Southwestern, and deeming it appropriate in the public interest and in the interest of investors and consumers that said declaration, as amended, and said application-declaration, as amended, be granted and permitted to become effective, subject to the terms and conditions set forth below, and the Commission further deeming it appropriate to grant applicants-declarants' request that the order herein be accelerated and become effective upon issuance thereof:

*It is ordered*, That, pursuant to Rule U-23 and the applicable provisions of the act, said declaration, as amended, of Central and said application-declaration, as amended, of Central, Power and Light and Southwestern, be and the same hereby are, granted and permitted to become effective forthwith, subject to the terms and conditions prescribed in Rule U-24 and subject to the following additional conditions:

1. That the proposed issuance and sale of common stock by Central shall not be consummated until the results of competitive bidding, pursuant to Rule U-50, have been made a matter of record in these proceedings and a further order shall have been entered by the Commission in the light of the record so completed, which order may contain such further terms and conditions as may then be deemed appropriate, jurisdiction being reserved for such purpose.

2. That the transactions proposed by Southwestern shall not be consummated until the requisite authority is secured by Southwestern from the Arkansas Public Service Commission and a certified copy of the order is made a matter of record herein.

*It is further ordered*, Pursuant to the request of Central, that for the purpose of this case the ten-day period for inviting bids as provided by Rule U-50 be, and the same hereby is, shortened to a period of not less than six days.

By the Commission.

[SEAL] ORVAL L. DuBOIS,  
Secretary.

[F. R. Doc. 49-8743; Filed, Oct. 31, 1949; 8:51 a. m.]



[File No. 70-2240]

## CITIES SERVICE CO.

## ORDER GRANTING APPLICATIONS AND PERMITTING DECLARATIONS TO BECOME EFFECTIVE

At a regular session of the Securities and Exchange Commission, held at its office in the city of Washington, D. C., on the 24th day of October A. D. 1949.

Cities Service Company ("Cities"), a registered holding company, having filed applications and declarations, and an amendment thereto, pursuant to the Public Utility Holding Company Act of 1935, particularly sections 6 (a), 7, 9 (a), 10 and 12 (b) thereof and Rule U-43 of the rules and regulations promulgated thereunder with respect to the following transactions:

Cities proposes to organize a new corporation, under the laws of the State of Delaware, to be known as Cities Diverse Assets Inc. (which name is in substitution for a previous designation of the new corporation, Cities Service Hetera Corp.), and to transfer to said corporation \$5,402.20 in cash and securities with an aggregate carrying value on the books of Cities of \$2,224,598 in exchange for all of the common stock (22,300 shares of \$100 par value) of the new corporation.

The securities to be transferred by Cities are stated to represent investments in companies which are not public utilities as defined in the act and which are not engaged in the oil, wholesale natural gas or real estate businesses, and consist of (a) 145,895 shares (99.569%) of 8% Cumulative Preferred Stock, \$3,399,000 principal amount of First Mortgage 6% Gold Bonds, and \$733,355.04 principal amount of Demand Notes of The Community Traction Company, an Ohio corporation which operates bus lines and street railway lines in the City of Toledo, Ohio; (b) 21,601 shares (98.55%) of Common Stock, 1,943,875 shares (95.59%) of 1st Preferred Stock, 1,254 shares (100%) of 2nd Preferred Stock, and \$110,250 principal amount of 7% Bonds due 1939 of The Brightman Manufacturing Company, an Ohio corporation which manufactures nuts for bolts; (c) 339,639 shares (64.705%) of Common Stock and 1,470 shares of Certificates of Contingent Interest of Federal Liquidating Corporation, a Delaware corporation organized for the purpose of liquidating Federal Light & Traction Company; (d) 1,215 shares (1.74% of Class B Preferred Stock of United Fuel Investments, Limited, a Canadian holding company; and (e) \$395,000 principal amount of 5% Bonds due 1932 of Guayaquil & Quito Railway Company, an Ecuador corporation which operates a railway line in Ecuador.

Said applications and declarations having been filed on October 5, 1949, and an amendment thereto having been filed on October 19, 1949, amending said filing only with respect to a proposal to change the name of the new corporation to Cities Diverse Assets, Inc., and notice of said filing having been given in the form and manner prescribed by Rule U-23 under said act, and the Commission not having received a request for hearing with respect thereto within the period specified

in said notice, or otherwise and not having ordered a hearing thereon, and

The Commission finding with respect to the proposed transactions that all of the applicable provisions of the act and the rules promulgated thereunder are satisfied, that no adverse findings are required thereunder, and deeming it appropriate that said applications and declarations, as amended, be granted and permitted to become effective, and the Commission also deeming it appropriate to grant the request that the order herein become effective forthwith upon issuance thereof:

*It is ordered*, Pursuant to Rule U-23 and the applicable provisions of the act, and subject to the terms and conditions prescribed in Rule U-24, that said applications and declarations, as amended, be, and hereby are, granted and permitted to become effective forthwith.

By the Commission.

[SEAL]

ORVAL L. DuBOIS,  
Secretary.[F. R. Doc. 49-8742; Filed, Oct. 31, 1949;  
8:51 a. m.]

[File No. 70-2241]

## DERBY GAS &amp; ELECTRIC CORP.

## PERMITTING DECLARATION TO BECOME EFFECTIVE

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 26th day of October A. D. 1949.

Derby Gas & Electric Corporation ("Derby"), a registered holding company, having filed a declaration pursuant to sections 6 (a) and 7 of the Public Utility Holding Company Act of 1935 ("act"), respecting the issuance and sale by Derby of such number of additional shares of its no par value common stock as may be necessary to provide it with approximately \$295,000; and

Derby having stated that the proceeds of the sale will be applied toward the retirement of its presently outstanding 2¾% short-term notes aggregating \$295,000; and

Derby having requested that our order to be entered in respect of this matter become effective forthwith upon issuance; and

Said declaration having been filed on October 5, 1949 and Notice of Filing having been duly given in the form and manner prescribed by Rule U-23 under the act, and the Commission not having received a request for hearing with respect to said declaration within the period specified in said Notice, or otherwise, and not having ordered a hearing thereon; and

The Commission finding with respect to said declaration, as amended, that the applicable provisions of the act and the rules and regulations thereunder have been satisfied and that there is no basis for imposing terms and conditions except those specified in Rule U-24 and deeming it appropriate in the public interest and in the interest of investors and consumers that said declaration, as amended, be permitted to become effective

and that the request of the declarant that the Commission's order become effective forthwith be granted;

*It is ordered*, That, pursuant to Rule U-23 and subject to the terms and conditions prescribed in Rule U-24 said declaration, as amended, be, and hereby is, permitted to become effective forthwith.

*It is further ordered*, That the proposed issue and sale of common stock by Derby shall not be consummated until the terms and conditions of said issue and sale have been made a matter of record in this proceeding and a further order entered by this Commission in the light of the record so completed, which order may contain such further terms or conditions as may then be deemed appropriate, jurisdiction being reserved for this purpose.

By the Commission.

ORVAL L. DuBOIS,  
Secretary.[F. R. Doc. 49-8746; Filed, Oct. 31, 1949;  
8:52 a. m.]

[File No. 70-2223]

## CENTRAL MAINE POWER CO.

## ORDER GRANTING APPLICATION

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 24th day of October A. D. 1949.

Central Maine Power Company ("the Company"), an operating public utility and a direct subsidiary of New England Public Service Company ("NEPSCO"), a registered holding company, which in turn is a direct subsidiary of Northern New England Company, also a registered holding company, having filed an application and amendments thereto, pursuant to section 6 (b) of the Public Utility Holding Company Act of 1935 and Rules U-23, U-24, and U-50 thereunder, with respect to the following proposed transactions:

The Company proposes to issue and sell at competitive bidding, pursuant to the requirements of Rule U-50, three several issues of its securities, to wit:

1. *Bonds*. \$5,000,000 principal amount of First and General Mortgage Bonds of a new series to be designated "Series S", to be issued and secured under the Company's First and General Mortgage, as amended and supplemented, to be dated November 1, 1949 and to mature November 1, 1979. The coupon rate, to be a multiple of ½ of 1%, and the price, to be not less than 100% nor more than 102¾% of the principal amount plus accrued interest to date of delivery, will be determined by competitive bidding.

2. *Preferred stock*. 30,000 shares of the Company's Dividend Series Preferred Stock, \$100 par value. Dividends will be cumulative and payable quarterly. The dividend rate, to be a multiple of .1% and not less than 3% nor more than 8%, and the price per share to be paid to the Company, to be not less than \$100 nor more than \$102.75 plus accumulated dividends from October 1, 1949 to date of delivery, will be determined by competitive bidding.



3. *Common stock.* 200,548 shares of the Company's Common Stock, \$10 par value. The additional shares will be offered first on warrants, on the basis of one new share for each ten shares of outstanding Common Stock and one new share for each two shares of outstanding 6% Preferred Stock, to holders of the Company's outstanding Common Stock and 6% Preferred Stock for subscription under their statutory preemptive rights. NEPSCO has advised the Company, that, as holder of 66.53% of the Company's Common Stock now outstanding, it will relinquish its right to subscribe for additional Common Stock, thereby making 131,518 shares of the new issue available for delivery to the successful bidders prior to the expiration date of the foregoing warrants. The price per share to be paid to the Company for the NEPSCO shares and the unsubscribed shares, to be not less than par and to be also the subscription price for the purchase of additional shares through the exercise of warrants, and the amount to be paid by the Company to the bidder or bidders as compensation for their commitments to purchase the NEPSCO shares and the unsubscribed shares, will be determined by competitive bidding.

The three several blocks of securities will be offered separately. The Company reserves the right to reject any and all bids, and in no case will the sale of a particular security be subject to or contingent upon the sale of any other security.

The Company states that the issuance and sale of said securities are solely for the purpose of financing its business as a public utility company, and that the net proceeds will be applied as follows: \$2,000,000 of the proceeds from the sale of the Bonds will be deposited with the Mortgage Trustee, to be later released to the Company, pursuant to the provisions of said Mortgage; and the remaining proceeds from all issues will be used (1) to pay the Company's short-term notes payable to the First National Bank of Boston in the principal amount of \$4,500,000, issued in connection with the Company's construction program; and (2) to further said construction program.

The Company estimates that its expenses will be as follows: In connection with the Bond issue, \$45,013.75, of which \$10,000 will be for legal expense and \$5,000 for accounting and auditing; in connection with the Preferred Stock issue, \$48,108.25, of which \$15,000 will be for legal expense and \$5,000 for accounting and auditing; in connection with the Common Stock issue, \$56,360.99, of which \$15,000 will be for legal expense and \$5,000 for accounting and auditing. In addition, the successful bidders will pay the fees and expenses of independent counsel to the underwriters in the several transactions.

The Company has requested that the Commission's order be effective immediately upon issuance.

Said application having been filed on September 19, 1949, and amendments thereto having been filed on October 5, 12, and 21, 1949, and notice of said filing having been given in the form and manner required by Rule U-23, and no request

for a hearing with respect thereto having been received within the period specified in said notice or otherwise, and the Commission not having ordered a hearing thereon; and

The proposed issuance and sale of the three several blocks of securities as aforesaid having been expressly authorized, subject to approval of the results of competitive bidding, by the Public Utilities Commission of the State of Maine, in which State the Company is organized and doing business; and

The Commission finding that said application as amended satisfies the requirements of the applicable provisions of the act and the rules and regulations thereunder, and that it is not necessary to impose any terms and conditions other than those set forth below, and the Commission also deeming it appropriate in the public interest and in the interest of investors and consumers that said amended application be granted, effective forthwith;

*It is ordered,* Pursuant to Rule U-23 and the applicable provisions of the act, that said application, as amended, be and the same hereby is granted, effective forthwith, subject to the terms and conditions contained in Rule U-24 and to the following additional conditions:

1. That none of the proposed sales shall be consummated until the results of competitive bidding pursuant to Rule U-50 and a final order of the Maine Public Utilities Commission approving same shall have been made a matter of record in this proceeding and a further order entered by this Commission in the light of the record so completed, which order may contain such further terms and conditions as may then be deemed appropriate;

2. That jurisdiction be and is hereby reserved with respect to fees and expenses for legal and accounting services in the several transactions, including the fees and expenses of counsel for the successful bidders.

By the Commission.

[SEAL] ORVAL L. DuBOIS,  
Secretary.

[F. R. Doc. 49-8704; Filed, Oct. 28, 1949;  
8:46 a. m.]

## DEPARTMENT OF JUSTICE

### Office of Alien Property

AUTHORITY: 40 Stat. 411, 55 Stat. 839, Pub. Laws 322, 671, 79th Cong., 60 Stat. 50, 925; 50 U. S. C. and Supp. App. 1, 616; E. O. 9193, July 6, 1942, 3 CFR, Cum. Supp., E. O. 9567, June 8, 1945, 3 CFR, 1945 Supp., E. O. 9788, Oct. 14, 1946, 11 F. R. 11981.

[Return Order 457]

IRENE DAMMANN

Having considered the claim set forth below and having issued a determination allowing the claim, which is incorporated by reference herein and filed herewith,

*It is ordered,* That the claimed property, described below and in the determination, be returned, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

### Claimant, Claim No., Notice of Intention To Return Published, and Property

Irene Dammann, London, England; Claim No. 37673; July 16, 1949 (14 F. R. 4031); all right, title and interest and claim of any kind or character whatsoever of Bella Abraham and Irene Dammann, in and to a trust created under the will of Jacob W. Gutman, deceased, being administered by the Central Hanover Bank and Trust Company, 70 Broadway, New York, New York, and Sidney H. Hersch, 363 West Church Street, Elmira, New York, as trustees acting under the judicial supervision of the Surrogate's Court, New York County, State of New York; \$6,329.73 in the Treasury of the United States.

Appropriate documents and papers effectuating this order will issue.

Executed at Washington, D. C., on October 25, 1949.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,  
Deputy Director,  
Office of Alien Property.

[F. R. Doc. 49-8766; Filed, Oct. 31, 1949;  
8:53 a. m.]

[Return Order 461]

ALFRED LAURITS PETERSEN ET AL.

Having considered the claim set forth below and having issued a determination allowing the claim, which is incorporated by reference herein and filed herewith,

*It is ordered,* That the claimed property, described below and in the determination, be returned, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

### Claimant, Claim No., Notice of Intention To Return Published, and Property

Alfred Laurits Petersen, Hesselkilde, Farum, Denmark; Claim No. 30215; Sept. 9, 1949 (14 F. R. 5555); \$570.79 in the Treasury of the United States.

Frederick Petersen, Skuldelev pr. Krogsrup, Denmark; Claim No. 30216; Sept. 9, 1949 (14 F. R. 5555); \$570.79 in the Treasury of the United States.

Ane Katharina Christiansen, Copenhagen, Denmark; Claim No. 30217; Sept. 9, 1949 (14 F. R. 5555); \$1,712.39 in the Treasury of the United States.

Anna Nirest, a/k/a Anna Marie Nerenst, Copenhagen, Denmark; Claim No. 30218; Sept. 9, 1949 (14 F. R. 5555); \$570.79 in the Treasury of the United States.

Appropriate documents and papers effectuating this order will issue.

Executed at Washington, D. C., on October 20, 1949.

For the Attorney General.

[SEAL] DAVID L. BAZELON,  
Assistant Attorney General,  
Director, Office of Alien Property.

[F. R. Doc. 49-8767; Filed, Oct. 31, 1949;  
8:54 a. m.]

[Return Order 465]

LUIGI MUCCI

Having considered the claim set forth below and having issued a determination



## NOTICES

allowing the claim, which is incorporated by reference herein and filed herewith.

*It is ordered*, That the claimed property, described below and in the determination, be returned, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

*Claimant, Claim No., Notice of Intention To Return Published, and Property*

Luigi Mucci, Marliana, Italy; Claim No. 10265; Aug. 13, 1949 (14 F. R. 5035); \$697.96 in the Treasury of the United States. All right, title and interest of Luigi Mucci in and to the Estate of Palmira Mucci, deceased.

Appropriate documents and papers effectuating this order will issue.

Executed at Washington, D. C., on October 20, 1949.

For the Attorney General.

[SEAL] DAVID L. BAZELON,  
Assistant Attorney General,  
Director, Office of Alien Property.

[F. R. Doc. 49-8768; Filed, Oct. 31, 1949; 8:54 a. m.]

[Return Order 467]

## SOCIETE RATEAU LA COURNEUVE

Having considered the claims set forth below and having issued a determination allowing the claims, which is incorporated by reference herein and filed herewith,

*It is ordered*, That the claimed property, described below and in the determination, including all royalties accrued thereunder and all damages and profits recoverable for past infringement thereof, be returned after adequate provision for taxes and conservatory expenses:

*Claimant, Claim No., Notice of Intention to Return Published, and Property*

Societe Rateau La Courneuve, Seine Department, France; Claim No. 12805, Sept. 17, 1949 (14 F. R. 5732); Property described in Vesting Order No. 666 (8 F. R. 5047, Apr. 17, 1943), relating to United States Letters Patent Nos. 2,127,172 and 2,219,070. Property described in Vesting Order No. 293 (7 F. R. 9836, November 26, 1942), relating to United States Patent Application Serial Nos. 428,304 (now Patent No. 2,371,889); 428,305 (now Patent No. 2,365,551); 434,985 (now Patent No. 2,372,696); 434,986 (now Patent No. 2,374,239); including Patent Application Serial No. 578,994; a division of Patent Application Serial No. 434,985 and Patent Application Serial No. 590,257; a division of Patent Application Serial No. 434,986. An undivided one-half interest in and to property described in Vesting Order No. 666 relating to United States Letters Patent Nos. 2,245,954 and 2,280,765. An undivided one-half interest in and to property described in Vesting Order No. 293 relating to United States Patent Application Serial Nos. 220,590 (now Patent No. 2,312,995); 367,667 (now United States Letters Patent No. 2,356,557) and 367,666 (now United States Letters Patent No. 2,396,911 upon which Reissue Application Serial No. 779,690 was filed Oct. 10, 1947). This return shall not be deemed to include the rights of any licensees under the above patents and patent applications.

Appropriate documents and papers effectuating this order will issue.

Executed at Washington, D. C., on October 25, 1949.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,  
Deputy Director,  
Office of Alien Property.

[F. R. Doc. 49-8769; Filed, Oct. 31, 1949; 8:54 a. m.]

## ODILE BURG

## NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of the publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

*Claimant, Claim No., Property and Location*

Odile Burg, a/k/a Othellia Burg, Strasbourg, France, 12115; \$1,688.13 in the Treasury of the United States. All right, title and interest of Odile Burg, also known as Othellia Burg, in and to the Estate of John Jacob, deceased.

Executed at Washington, D. C., on October 24, 1949.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,  
Deputy Director,  
Office of Alien Property.

[F. R. Doc. 49-8770; Filed, Oct. 31, 1949; 8:55 a. m.]

## SOCIETE D'APPLICATIONS ET DE CONSTRUCTIONS POUR MATERIEL AUTOMOBILE

## NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property located in Washington, D. C., including royalties accrued thereunder and damages and profits recoverable for past infringement thereof, except damages and profits arising out of infringement in war production, after adequate provision for taxes and conservatory expenses:

*Claimant, Claim No., and Property*

Societe d'Applications et de Constructions pour Matériel Automobile (S. A. C. M. A.), Neuilly-sur-Seine, (Seine), France; 6501; \$6,765.80 in the Treasury of the United States. Property described in Vesting Order No. 677 (8 F. R. 7029, May 27, 1943) relating to U. S. Letters Patent Nos. 1,927,750; 1,971,271; 1,982,528; 1,985,576 and 2,026,187; property described in Vesting Order No. 666 (8 F. R. 5047, Apr. 17, 1943) relating to U. S. Letters Patent No. 2,077,525. This return will include the rights of the Attorney General under a license agreement entered into by the Alien Property Custodian and Donat A. Gauthier on January 20, 1945, relative to the above patents.

Executed at Washington, D. C., on October 20, 1949.

For the Attorney General.

[SEAL] DAVID L. BAZELON,  
Assistant Attorney General,  
Director, Office of Alien Property.

[F. R. Doc. 49-8776; Filed, Oct. 31, 1949; 8:55 a. m.]

## JENS GRAND

## NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property located in Washington, D. C., including all royalties accrued thereunder and all damages and profits recoverable for past infringement thereof, after adequate provision for taxes and conservatory expenses:

*Claimant, Claim No., and Property*

Jens Grand, Højbjerg, Denmark; 6685; property described in Vesting Order No. 664, dated Jan. 18, 1943 (8 F. R. 4989, Apr. 17, 1943) relating to United States Letters Patent No. 2,143,947.

Executed at Washington, D. C., on October 24, 1949.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,  
Deputy Director,  
Office of Alien Property.

[F. R. Doc. 49-8771; Filed, Oct. 31, 1949; 8:55 a. m.]

## FRED HESS

## NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of the publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

*Claimant, Claim No., Property and Location*

Fred Hess, Pestalozzistr. 19, Lorrach (2), Baden, Germany; 13177; \$2,000 in the Treasury of the United States.

Executed at Washington, D. C., on October 24, 1949.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,  
Deputy Director,  
Office of Alien Property.

[F. R. Doc. 49-8772; Filed, Oct. 31, 1949; 8:55 a. m.]

## HOOVER CO.

## NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended,



notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property located in Washington, D. C., including all royalties accrued thereunder and all damages and profits recoverable for past infringement thereof, after adequate provision for taxes and conservatory expenses:

*Claimant, Claim No., and Property*

The Hoover Co., North Canton, Ohio, 2126; property described in Vesting Order No. 201 (8 F. R. 625, Jan. 16, 1943), relating to United States Letters Patent No. 1,901,467.

Executed at Washington, D. C., on October 25, 1949.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,  
Deputy Director,  
Office of Alien Property.

[F. R. Doc. 49-8773; Filed, Oct. 31, 1949; 8:55 a. m.]

[Vesting Order 500A-257]

**COPYRIGHTS OF CERTAIN GERMAN NATIONALS**

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That the persons (including individuals, partnerships, associations, corporations or other business organizations) referred to or named in Column 5 of Exhibit A attached hereto and made a part hereof and whose last known addresses are listed in said Exhibit A as being in a foreign country (the names of which persons are listed (a) in Column 3 of said Exhibit A as the authors of the works, the titles of which are listed in Column 2, and the copyright numbers, if any, of which are listed in Column 1,

respectively, of said Exhibit A, and/or (b) in Column 4 of said Exhibit A as the owners of the copyrights, the numbers, if any, of which are listed in Column 1, and covering works the titles of which are listed in Column 2, respectively, of said Exhibit A, and/or (c) in Column 5 of said Exhibit A as others owning or claiming interests in such copyrights) are residents of, or are organized under the laws of, or have their principal places of business in, such foreign country and are nationals thereof;

2. That all right, title, interest and claim of whatsoever kind or nature, under the statutory and common law of the United States and of the several States thereof, of the persons referred to in Column 5 of said Exhibit A, and also of all other persons (including individuals, partnerships, associations, corporations or other business organizations), whether or not named elsewhere in this Order including said Exhibit A, who are residents of, or which are organized under the laws of or have their principal places of business in, Germany or Japan, and are nationals of such foreign countries, in, to and under the following:

a. The copyrights, if any, described in said Exhibit A,

b. Every copyright, claim of copyright and right to copyright in the works described in said Exhibit A and in every issue, edition, publication, republication, translation, arrangement, dramatization and revision thereof, in whole or in part, of whatsoever kind or nature, and of all other works designated by the titles therein set forth, whether or not filed with the Register of Copyrights or otherwise asserted, and whether or not specifically designated by copyright number,

c. Every license, agreement, privilege, power and right of whatsoever nature arising under or with respect to the foregoing,

d. All monies and amounts, and all rights to receive monies and amounts, by

way of royalty, share of profits or other emolument, accrued or to accrue, whether arising pursuant to law, contract or otherwise, with respect to the foregoing,

e. All rights of renewal, reversion or reversioning, if any, in the foregoing, and

f. All causes of action accrued or to accrue at law or in equity with respect to the foregoing, including but not limited to the rights to sue for and recover all damages and profits and to request and receive the benefits of all remedies provided by common law or statute for the infringement of any copyright or the violation of any right or the breach of any obligation described in or affecting the foregoing,

is property of, and is property payable or held with respect to copyrights or rights related thereto in which interests are held by, and such property itself constitutes interests held therein by, the aforesaid nationals of foreign countries.

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described in subparagraph 2 hereof, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The term "national" as used herein shall have the meaning prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on October 10, 1949.

For the Attorney General.

[SEAL] DAVID L. BAZELON,  
Assistant Attorney General,  
Director, Office of Alien Property.

**EXHIBIT A**

Column 1	Column 2	Column 3	Column 4	Column 5
Copyright Nos.	Titles of works	Names and last-known nationalities of authors	Names and last-known addresses of owners of copyrights	Identified persons whose interests are being vested
A. For. 28098.....	Fabulierbuch. Erzählungen. 1935.....	Hermann Hesse (nationality not established).	S. Fischer Verlag A. G., Berlin, Germany (nationality, German).	Owner.
Unknown.....	Junge Deutsche Dichtung. 1930.....	Kurt Virneburg and Helmut Hurst (editors) (nationalities not established).	Eigenbröckler Verlag A. G., Berlin W. S., Germany (nationality, German).	Do.
A. For. 22988.....	Erzähler der Gegenwart: Der Schritt über die Schwelle. Novellen. 1933.	Georg von der Vring (nationality not established).	L. Staackmann Verlag G. m. b. H., Leipzig, Germany (nationality, German).	Do.
Unknown.....	Bei dir war es immer so schön... Langsamer Foxtrot. 1941.	Theo Mackeben (music), Hans Fritz Beckmann (words) (nationalities not established).	Crescendo Theater-verlag G. m. b. H., Berlin W. 50, Germany (nationality, German).	Do.
R. 65370.....	Symphonie (C Dur). (Nachgelassenes Werk). 1938.	Richard Wagner (composer) (deceased) (nationality not established).	Max Brockhaus, Leipzig, Germany (nationality, German).	Do.
Unknown.....	Vorlesungen ueber Theoretische Physik. Band II, "Mechanik der Deformierbaren Medien." 1945.	Arnold Sommerfeld, Munich, Germany (nationality, German).	Akademische Verlagsgesellschaft Becker & Erler Kom.-Ges., Leipzig, Germany (nationality, German).	Author and owner.

[F. R. Doc. 49-8773; Filed, Oct. 31, 1949; 8:56 a. m.]

[Vesting Order 500A-258]

**COPYRIGHT OF EMIL RÖHMKOPF, GERMAN NATIONAL**

Under the authority of the Trading With the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That the persons (including individuals, partnerships, associations,

corporations or other business organizations) referred to or named in Column 5 of Exhibit A attached hereto and made a part hereof and whose last known addresses are listed in said Exhibit A as being in a foreign country (the names of which persons are listed (a) in Column 3 of said Exhibit A as the authors of the works, the titles of which are listed in Column 2, and the copyright numbers, if any, of which are listed in Column 1, re-

spectively, of said Exhibit A, and/or (b) in Column 4 of said Exhibit A as the owners of the copyrights, the numbers, if any, of which are listed in Column 1, and covering works the titles of which are listed in Column 2, respectively, of said Exhibit A, and/or (c) in Column 5 of said Exhibit A as others owning or claiming interests in such copyrights) are residents of, or are organized under the laws of, or have their principal places of business



in, such foreign country and are nationals thereof;

2. That all right, title, interest and claim of whatsoever kind or nature, under the statutory and common law of the United States and of the several States thereof, of the persons referred to in Column 5 of said Exhibit A, and also of all other persons (including individuals, partnerships, associations, corporations or other business organizations), whether or not named elsewhere in this Order including said Exhibit A, who are residents of, or which are organized under the laws of or have their principal places of business in, Germany or Japan, and are nationals of such foreign countries, in, to and under the following:

a. The copyrights, if any, described in said Exhibit A,

b. Every copyright, claim of copyright and right to copyright in the works described in said Exhibit A and in every issue, edition, publication, republication, translation, arrangement, dramatization and revision thereof, in whole or in part, of whatsoever kind or nature, and of all other works designated by the titles

therein set forth, whether or not filed with the Register of Copyrights or otherwise asserted, and whether or not specifically designated by copyright number,

c. Every license, agreement, privilege, power and right of whatsoever nature arising under or with respect to the foregoing,

d. All monies and amounts, and all rights to receive monies and amounts, by way of royalty, share of profits or other emolument, accrued or to accrue, whether arising pursuant to law, contract or otherwise, with respect to the foregoing,

e. All rights of renewal, reversion or reversioning, if any, in the foregoing, and

f. All causes of action accrued or to accrue at law or in equity with respect to the foregoing, including but not limited to the rights to sue for and recover all damages and profits and to request and receive the benefits of all remedies provided by common law or statute for the infringement of any copyright or the violation of any right or the breach of any obligation described in or affecting the foregoing,

is property of, and is property payable or held with respect to copyrights or rights related thereto in which interests are held by, and such property itself constitutes interests held therein by, the aforesaid nationals of foreign countries.

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described in subparagraph 2 hereof, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The term "national" as used herein shall have the meaning prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on October 10, 1949.

For the Attorney General.

[SEAL] DAVID L. BAZELON,  
Assistant Attorney General,  
Director, Office of Alien Property.

## EXHIBIT A

Column 1	Column 2	Column 3	Column 4	Column 5
Copyright Nos.	Titles of works	Names and last-known nationalities of authors	Names and last-known addresses of owners of copyrights	Identified persons whose interests are being vested
Unknown.....	Erzähl noch was; 300 kleine Geschichten. 1937.	Wolfgang Stendel (editor) (nationality not established).	Emil Rohmkopf, Leipzig, Germany (nationality, German).	Owner.

[F. R. Doc. 49-8779; Filed, Oct. 31, 1949; 8:56 a. m.]

## THERESIA SCHLOEGL

## NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of the publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Theresia Schloegl, Stiermark, Austria; 39916; \$5,835.39 in the Treasury of the United States.

Executed at Washington, D. C., on October 25, 1949.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,  
Deputy Director,  
Office of Alien Property.

[F. R. Doc. 49-8774; Filed, Oct. 31, 1949; 8:55 a. m.]

## SOCIETE CHANTERINE D'APPLICATIONS

## NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of the publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Societe Chantierine D'Applications, Industrielles de Brevets, Paris, France; 42243; property described in Vesting Order No. 666 (8 F. R. 5047, Apr. 17, 1943), relating to United States Letters Patent Nos. 2,025,402 and 2,238,806.

Executed at Washington, D. C., on October 25, 1949.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,  
Deputy Director,  
Office of Alien Property.

[F. R. Doc. 49-8775; Filed, Oct. 31, 1949; 8:55 a. m.]

## ELEANOR MCQUADE TIERI

## NOTICE OF INTENTION TO RETURN VESTED PROPERTY

Pursuant to section 32 (f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of the publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Eleanor McQuade Tieri, Yonkers, N. Y., 3841; real property in Yonkers, N. Y., known as 21 Roxbury Drive; the interest of Eleanor Tieri in fire insurance policy No. 16059 issued by Aetna Fire Group, insuring the said premises; and \$3,303.35 in the Treasury of the United States.

Executed at Washington, D. C., on October 26, 1949.

For the Attorney General.

[SEAL] HAROLD I. BAYNTON,  
Deputy Director,  
Office of Alien Property.

[F. R. Doc. 49-8777; Filed, Oct. 31, 1949; 8:55 a. m.]